

ADOPTED: FEBRUARY 18, 2013



# RALEIGH, NORTH CAROLINA PART 10A: UNIFIED DEVELOPMENT ORDINANCE



EFFECTIVE DATE: SEPTEMBER 01, 2013

*PAGE INTENTIONALLY LEFT BLANK*

# Contents

## **CHAPTER 1. INTRODUCTORY PROVISIONS 1 – 1**

ARTICLE 1.1. LEGAL PROVISIONS .....	1 – 2
ARTICLE 1.2. ZONING MAP.....	1 – 5
ARTICLE 1.3. ZONING DISTRICTS.....	1 – 6
ARTICLE 1.4. BUILDING TYPES .....	1 – 8
ARTICLE 1.5. MEASUREMENT, EXCEPTIONS & GENERAL RULES OF APPLICABILITY.....	1 – 10

## **CHAPTER 2. RESIDENTIAL DISTRICTS 2 – 1**

ARTICLE 2.1. GENERAL PROVISIONS .....	2 – 2
ARTICLE 2.2. CONVENTIONAL DEVELOPMENT OPTION .....	2 – 4
ARTICLE 2.3. COMPACT DEVELOPMENT .....	2 – 12
ARTICLE 2.4. CONSERVATION DEVELOPMENT OPTION.....	2 – 19
ARTICLE 2.5. COMMON OPEN SPACE REQUIREMENTS .....	2 – 26
ARTICLE 2.6. ADDITIONAL HOUSING PATTERNS .....	2 – 28

## **CHAPTER 3. MIXED USE DISTRICTS 3 – 1**

ARTICLE 3.1. GENERAL PROVISIONS.....	3 – 2
ARTICLE 3.2. BASE DIMENSIONAL STANDARDS .....	3 – 4
ARTICLE 3.3. HEIGHT REQUIREMENTS .....	3 – 12
ARTICLE 3.4. FRONTAGE REQUIREMENTS .....	3 – 14
ARTICLE 3.5. NEIGHBORHOOD TRANSITIONS .....	3 – 23

## **CHAPTER 4. SPECIAL DISTRICTS 4 – 1**

ARTICLE 4.1. GENERAL PROVISIONS .....	4 – 2
ARTICLE 4.2. CONSERVATION MANAGEMENT (CM) .....	4 – 3
ARTICLE 4.3. AGRICULTURE PRODUCTIVE (AP) .....	4 – 4
ARTICLE 4.4. HEAVY INDUSTRIAL (IH).....	4 – 6
ARTICLE 4.5. MANUFACTURED HOUSING (MH).....	4 – 7

ARTICLE 4.6. CAMPUS (CMP) .....	4 – 10
ARTICLE 4.7. PLANNED DEVELOPMENT (PD) .....	4 – 13

## **CHAPTER 5. OVERLAY DISTRICTS 5 – 1**

ARTICLE 5.1. GENERAL PROVISIONS .....	5 – 2
ARTICLE 5.2. ENVIRONMENTAL OVERLAYS .....	5 – 5
ARTICLE 5.3. CORRIDOR OVERLAYS.....	5 – 8
ARTICLE 5.4. CHARACTER PROTECTION OVERLAYS.....	5 – 12
ARTICLE 5.5. TRANSIT OVERLAYS .....	5 – 21
ARTICLE 5.6. PARKING OVERLAYS.....	5 – 22

## **CHAPTER 6. USE REGULATIONS 6 – 1**

ARTICLE 6.1. ALLOWED USES .....	6 – 2
ARTICLE 6.2. RESIDENTIAL USES .....	6 – 8
ARTICLE 6.3. PUBLIC & INSTITUTIONAL USES.....	6 – 13
ARTICLE 6.4. COMMERCIAL USES.....	6 – 19
ARTICLE 6.5. INDUSTRIAL USES.....	6 – 31
ARTICLE 6.6. OPEN USES.....	6 – 36
ARTICLE 6.7. ACCESSORY USES & STRUCTURES.....	6 – 39
ARTICLE 6.8. TEMPORARY USES .....	6 – 43

## **CHAPTER 7. GENERAL DEVELOPMENT STANDARDS 7 – 1**

ARTICLE 7.1. PARKING .....	7 – 3
ARTICLE 7.2. LANDSCAPING AND SCREENING .....	7 – 14
ARTICLE 7.3. SIGNS .....	7 – 26
ARTICLE 7.4. SITE LIGHTING.....	7 – 44
ARTICLE 7.5. OUTDOOR DISPLAY AND STORAGE.....	7 – 48

**CHAPTER 8. SUBDIVISION & SITE PLAN STANDARDS 8 – 1**

ARTICLE 8.1. GENERAL PROVISIONS ..... 8 – 3  
ARTICLE 8.2. INFRASTRUCTURE SUFFICIENCY ..... 8 – 6  
ARTICLE 8.3. BLOCKS, LOTS, ACCESS..... 8 – 8  
ARTICLE 8.4. NEW STREETS ..... 8 – 14  
ARTICLE 8.5. EXISTING STREETS ..... 8 – 30  
ARTICLE 8.6. REIMBURSEMENTS ..... 8 – 36  
ARTICLE 8.7. UTILITIES ..... 8 – 39  
ARTICLE 8.8. SURFACE WATER DRAINAGE ..... 8 – 42  
ARTICLE 8.9. FACILITY FEES ..... 8 – 43  
ARTICLE 8.10. ENFORCEMENT ..... 8 – 46

**CHAPTER 9. NATURAL RESOURCE PROTECTION 9 – 1**

ARTICLE 9.1. TREE CONSERVATION ..... 9 – 2  
ARTICLE 9.2. STORMWATER MANAGEMENT ..... 9 – 10  
ARTICLE 9.3. FLOODPRONE AREA REGULATIONS..... 9 – 25  
ARTICLE 9.4. EROSION & SEDIMENTATION CONTROL..... 9 – 32  
ARTICLE 9.5. WATERSHED PROTECTION AREAS ..... 9 – 42

**CHAPTER 10. ADMINISTRATION 10 – 1**

ARTICLE 10.1. REVIEW BODIES ..... 10 – 2  
ARTICLE 10.2. REVIEW PROCEDURES ..... 10 – 10  
ARTICLE 10.3. NONCONFORMITIES ..... 10 – 60  
ARTICLE 10.4. ENFORCEMENT ..... 10 – 67

**CHAPTER 11. BUILDING AND HOUSING CODE 11 – 1**

ARTICLE 11.1. ADOPTION OF CODES BY REFERENCE ..... 11 – 3  
ARTICLE 11.2. DEPARTMENT OF INSPECTIONS ..... 11 – 6  
ARTICLE 11.3. EXAMINING BOARDS & LICENSING ..... 11 – 8  
ARTICLE 11.4. ENFORCEMENT PROVISIONS ..... 11 – 12  
ARTICLE 11.5. UNSAFE BUILDINGS..... 11 – 18  
ARTICLE 11.6. HOUSING CODE ..... 11 – 20  
ARTICLE 11.7. MANUFACTURED HOMES ..... 11 – 36  
ARTICLE 11.8. DEMOLITION BY NEGLECT OF HISTORIC LANDMARKS AND STRUCTURES  
WITHIN HISTORIC OVERLAY DISTRICTS ..... 11 – 37  
ARTICLE 11.9. NONRESIDENTIAL BUILDING OR STRUCTURE CODE ..... 11 – 43

**CHAPTER 12. DEFINITIONS 12 – 1**

ARTICLE 12.1. GENERAL..... 12 – 2  
ARTICLE 12.2. DEFINED TERMS ..... 12 – 3

# CHAPTER 1. INTRODUCTORY PROVISIONS

## Article 1.1. Legal Provisions 1 – 2

Sec. 1.1.1. Title .....	1 – 2
Sec. 1.1.2. Applicability .....	1 – 2
Sec. 1.1.3. Effective Date .....	1 – 2
Sec. 1.1.4. Purpose and Intent.....	1 – 2
Sec. 1.1.5. Relationship to the Comprehensive Plan .....	1 – 2
Sec. 1.1.6. Minimum Requirements.....	1 – 2
Sec. 1.1.7. Conflicting Provisions .....	1 – 2
Sec. 1.1.8. Severability .....	1 – 3
Sec. 1.1.9. Ownership & Management of Common Elements.....	1 – 3
Sec. 1.1.10. Penalties and Remedies .....	1 – 4
Sec. 1.1.11. Existing Buildings and Structures.....	1 – 4
Sec. 1.1.12. Adopted Manuals .....	1 – 4

## Article 1.2. Zoning Map 1 – 5

Sec. 1.2.1. Establishment of Official Zoning Map.....	1 – 5
Sec. 1.2.2. Interpretation of Map Boundaries .....	1 – 5
Sec. 1.2.3. Rules of Interpretation .....	1 – 5

## Article 1.3. Zoning Districts 1 – 6

Sec. 1.3.1. General Use Zoning Districts .....	1 – 6
Sec. 1.3.2. Conditional Use Zoning Districts .....	1 – 6
Sec. 1.3.3. Overlay Districts.....	1 – 6
Sec. 1.3.4. Legacy Districts .....	1 – 7

## Article 1.4. Building Types 1 – 8

Sec. 1.4.1. Building Type Descriptions .....	1 – 8
Sec. 1.4.2. Building Types Allowed by District .....	1 – 9

## Article 1.5. Measurement, Exceptions & General Rules of Applicability 1 – 10

Sec. 1.5.1. Site .....	1 – 10
Sec. 1.5.2. Lot .....	1 – 10
Sec. 1.5.3. Coverage.....	1 – 11
Sec. 1.5.4. Building Setbacks .....	1 – 12
Sec. 1.5.5. Parking Setbacks .....	1 – 13
Sec. 1.5.6. Build-to.....	1 – 13
Sec. 1.5.7. Height.....	1 – 14
Sec. 1.5.8. Pedestrian Access .....	1 – 17
Sec. 1.5.9. Transparency .....	1 – 17
Sec. 1.5.10. Blank Wall Area .....	1 – 18
Sec. 1.5.11. Building Elements .....	1 – 19
Sec. 1.5.12. Private Residential Garage Parking Options .....	1 – 21

## Article 1.1. Legal Provisions

### Sec. 1.1.1. Title

The official title of this document is Part 10A: Unified Development Ordinance for the City of Raleigh, North Carolina and is referred to throughout this document as "this UDO."

### Sec. 1.1.2. Applicability

- A. This UDO applies to all land, buildings, structures and uses located within the corporate limits and the extraterritorial jurisdiction of the City of Raleigh, North Carolina.
- B. To the extent allowed by law, the provisions of this UDO apply to all land, buildings, structures and uses owned, leased or otherwise controlled by any district, County, State or Federal government agencies.

### Sec. 1.1.3. Effective Date

This UDO was adopted on February 18, 2013 and became effective on September 1, 2013 by Ordinance No. 2013 151 TC 357 (TC-3-12).

### Sec. 1.1.4. Purpose and Intent

This UDO is adopted to preserve, protect and promote the public health, safety and general welfare of residents and businesses in the City. More specifically, this UDO is adopted to achieve the following objectives:

- A. Implement the policies and goals contained within officially adopted plans, including the Comprehensive Plan;
- B. Improve the built environment and human habitat;
- C. Conserve and protect the City's natural beauty and setting, including trees, scenic vistas and cultural and historic resources;
- D. Ensure that new development conserves energy, land and natural resources;
- E. Protect water quality within watershed critical areas, the general watershed areas of designated water supply watersheds and other watershed districts;
- F. Encourage environmentally responsible development practices;
- G. Promote development patterns that support safe, effective and multi-modal transportation options, including auto, pedestrian, bicycle and transit and

therefore minimize vehicle traffic by providing for a mixture of land uses, walkability and compact community form;

- H. Provide neighborhoods with a variety of housing types to serve the needs of a diverse population;
- I. Promote the greater health benefits of a pedestrian-oriented environment;
- J. Reinforce the character and quality of neighborhoods;
- K. Remove barriers and provide incentives for walkable projects;
- L. Protect and promote appropriately located commercial and industrial activities in order to preserve and strengthen the City's economic base;
- M. Encourage compact development;
- N. Ensure that adequate facilities are constructed to serve new development;
- O. Provide for orderly growth and development of suitable neighborhoods with adequate transportation networks, drainage and utilities and appropriate building sites;
- P. Save unnecessary expenditures of funds by requiring the proper initial construction of transportation networks, sidewalks, drainage facilities and utilities; and
- Q. Provide land records for the convenience of the public and for better identification and permanent location of real estate boundaries.

### Sec. 1.1.5. Relationship to the Comprehensive Plan

The Comprehensive Plan serves as the basic policy guide for development under this UDO. The policies and action items of the Comprehensive Plan may be amended from time to time to meet the changing requirements of the City in accordance with the standards and procedures in *Sec. 10.2.2*.

### Sec. 1.1.6. Minimum Requirements

The requirements of this UDO are considered to be the minimum requirements for the promotion of the public health, safety and general welfare.

### Sec. 1.1.7. Conflicting Provisions

- A. If any provisions of this UDO are inconsistent with similar provisions of State or Federal law, the more restrictive provision shall control, to the extent permitted by law.

- B. Conflicts and duplications among portions of this UDO shall be resolved in favor of the more stringent regulation.

### Sec. 1.1.8. Severability

- A. It is expressly declared that this UDO and each section, subsection, sentence and phrase would have been adopted regardless of whether one or more other portions of the UDO are declared invalid or unconstitutional (See Section 14-1004).
- B. If for any reason any specific condition or regulation of a conditional use zoning district ordinance is found to be invalid, it is the intention of this section that such invalidity shall not affect other provisions or applications of the conditional use zoning district ordinance. However, when any property owner or their tenant or agents challenge any specific condition or regulation of a conditional use zoning district ordinance, then the entire zoning district ordinance shall return to its prior zoning classification upon a finding of invalidity of any specific condition or regulation.

### Sec. 1.1.9. Ownership & Management of Common Elements

#### A. Applicability

- 1. This UDO requires common elements which are used for the benefit of multiple lots in a variety of its regulations, including, but not limited to:
  - a. Tree conservation areas for subdivisions 2 acres and greater in size (*Sec. 9.1.4.*);
  - b. Shared stormwater control measures and devices (*Sec. 9.2.2.G.*);
  - c. Common open space (*Article 2.5., Article 4.6. and Article 4.7.*);
  - d. Outdoor amenity area (*Sec. 1.5.3.*);
  - e. Townhouse party walls;
  - f. Objects or improvements for a subdivision located on, under, in, or over public property or public street right-of-way which is subject to an encroachment agreement with a governmental entity; and
  - g. City greenways and permanently protected undisturbed open space areas (*Article 9.2.*).
- 2. Whenever any development contains a common element, whether named or not named in this section, a City Code Covenant is required.

- 3. For the purposes of this section, it does not matter whether the common elements are owned by a homeowners' association or are governed by easements; in both instances, a City Code Covenant is required. An executed copy of the City Code Covenant shall be submitted to Planning and Development prior to the recording of the final subdivision plat or prior to the issuance of building permits whichever event first occurs.

#### B. City Code Covenant

The City Code Covenant is a form instrument that can be found on the City's web portal. The contents of the City Code Covenant are:

- 1. Establishment of a homeowners' association;
- 2. Mandatory membership in the association for owners;
- 3. Association responsibility for expenditures, including liability insurance, taxes on common areas, maintenance of common elements, payment of assessments, utility charges and management, enforcement and administrative expenses;
- 4. Association empowerment to levy assessments against lot owners;
- 5. Easements for access, parking and walkways granted to owners;
- 6. Limitations on conveying common space or elements;
- 7. Provisions for common party walls;
- 8. Perpetual access easements for immediately abutting buildings;
- 9. Maintenance of private streets (if any);
- 10. Perpetual rights of access for all common elements and private streets for governmental agencies;
- 11. Obligations for tree protection;
- 12. Limits on immunity and indemnification;
- 13. Restrictions on parking on private streets;
- 14. Limits within clear sight triangles;
- 15. Provisions for common ownership of water and sewer lines; and
- 16. Provisions regarding maintenance and planting in landscape easements.

### C. Recording City Code Covenant

1. The City Code Covenant shall be recorded with the County Register of Deeds office where the property is located. By the end of the next business day following the recordation of the final subdivision plat, the developer shall provide Planning and Development evidence of the recorded City Code Covenant.
2. In all other instances, evidence of the recorded City Code Covenant shall be presented to Planning and Development no later than 1 day following the recording of the City Code Covenant.
3. No building permit will be issued for any portion of the development unless and until evidence of recordation of the City Code Covenant is first presented to Planning and Development.

### Sec. 1.1.10. Penalties and Remedies

Enforcement may be by any one or more of the following methods and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

#### A. Equitable Remedy

The City may apply for any appropriate equitable remedy to enforce the provisions of this UDO.

#### B. Injunction

Enforcement may also be achieved by injunction. When a violation occurs, the City may either before or after the institution of any other authorized action or proceeding, apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant, or in the case of counterclaims the plaintiff, to correct the unlawful condition or cease the unlawful use of the property.

#### C. Order of Abatement

The City may apply for and the court may enter an order of abatement. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this chapter. Whenever the party is cited for contempt by the court and the City

executed the order of abatement, the City shall have a lien, in the nature of a mechanic's and materialman's, on the property for the cost of executing the order of abatement.

#### D. Criminal

Violations of this UDO shall constitute a misdemeanor or infraction as provided by N.C. Gen. Stat. §14-4 and the maximum fine, term or imprisonment or infraction penalty allowed by law is hereby authorized.

### Sec. 1.1.11. Existing Buildings and Structures

No existing building or structure constructed prior to September 1, 2013 shall be considered a nonconforming structure based on any of the following provisions:

- A. Build-to regulations in Sec. 1.5.6.;
- B. Pedestrian access regulations in Sec. 1.5.8.;
- C. Transparency regulations in Sec. 1.5.9.;
- D. Blank wall regulations in Sec. 1.5.10.; and
- E. Residential garage parking options in Sec. 1.5.12.

### Sec. 1.1.12. Adopted Manuals

The following external manuals contain technical requirements and are maintained by the City and referenced in this UDO:

- A. Addressing Manual;
- B. Guidelines for Land Disturbing Activity;
- C. Historic Development District Design Guidelines;
- D. Private Use of Public Spaces;
- E. Public Utilities Handbook;
- F. Solid Waste Services Design Manual;
- G. Stormwater Manual;
- H. Street Design Manual; and
- I. Tree Manual.

## Article 1.2. Zoning Map

### Sec. 1.2.1. Establishment of Official Zoning Map

- A. The location and boundaries of zoning districts established by this UDO are shown and maintained as part of the City's Geographic Information System (GIS) under the direction of the Planning and Development Officer. The Zoning GIS layer constitutes the City of Raleigh's Official Zoning Map and is part of this UDO. All notations, references and other information shown shall have the same force and effect as if fully set forth or described in this UDO.
- B. At the direction of City Council, the Planning and Development Officer is authorized to revise the Official Zoning Map. No unauthorized person may alter or modify the Official Zoning Map.
- C. Planning and Development must maintain digital or printed copies of the Official Zoning Map and maintain records of superseded official maps.
- D. All changes to the Official Zoning Map of the City shall be identified by updating the original computer digital data of each change, together with the date of the change.
- E. When the City's extraterritorial jurisdiction is expanded, changes in the Official Zoning Map shall be identified by updating the original computer digital data with the date of the change.
- F. A hard copy of the data and changes to the data will be kept by Planning and Development; all revisions to hard copies will be numbered, dated and signed by the Planning and Development Officer.

### Sec. 1.2.2. Interpretation of Map Boundaries

- A. In the event that any uncertainty exists with respect to the intended boundaries as shown on Official Zoning Map, the Planning and Development Officer is authorized to interpret the boundaries.
- B. Where uncertainty exists as to the boundaries of any zoning district shown on the Official Zoning Map, the precise location is to be determined as follows:
  1. Where a boundary line is shown as coinciding, binding along or superimposed upon a lot line, such lot line shall be deemed to be a boundary line.
  2. Where the location of a boundary line is indicated by a designated number of feet, that distance controls.

3. Where a boundary line is shown as within or binding along a street, alley, waterway or right-of-way, the boundary line is deemed to be in the center of the street, alley, waterway or right-of-way except in the cases where the edge of the street, alley, waterway or right-of-way is designated as the boundary line.
4. Where a boundary line is shown as binding along a railroad track or as being located a designated number of feet from a railroad track or where the location of a boundary line may be scaled from a railroad track, the nearest rail of the track designated controls.
5. Where a boundary line is superimposed on a topographic elevation line, the precise location of the boundary line must be determined by field survey of the topographic elevation line, unless the topographic elevation has been relocated through grading subsequent to establishment of the boundary line.
6. Where a boundary line is shown and its location is not fixed by any of the rules above, its precise location shall be determined by the use of the scale shown on the map.

### Sec. 1.2.3. Rules of Interpretation

Where an approved zoning condition conflicts with a standard of the corresponding general use district, the following shall apply.

- A. The new general use district is controlling.
- B. The UDO height, setback, parking, landscaping and screening regulations when more stringent than in the conditional use zoning district ordinance are controlling. The calculation of height, setback and parking shall be in accordance with the UDO.
- C. All approval processes shall follow the regulations of this UDO.
- D. If the conditional use zoning ordinance limits uses to a former legacy zoning district, those use limitations shall continue except if the former allowed use is not allowed in the new UDO general use zoning district. Limited uses and special uses will be determined by the UDO general use district.

## Article 1.3. Zoning Districts

### Sec. 1.3.1. General Use Zoning Districts

The following general use zoning districts are established and applied to property as set forth on the Official Zoning Map.

#### Residential Districts

R-1	Residential-1
R-2	Residential-2
R-4	Residential-4
R-6	Residential-6
R-10	Residential-10

#### Mixed Use Districts

RX-	Residential Mixed Use
OP-	Office Park
OX-	Office Mixed Use
NX-	Neighborhood Mixed Use
CX-	Commercial Mixed Use
DX-	Downtown Mixed Use
IX-	Industrial Mixed Use

#### Special Districts

CM	Conservation Management
AP	Agricultural Productive
IH	Heavy Industrial
MH	Manufactured Housing
CMP	Campus
PD	Planned Development

### Sec. 1.3.2. Conditional Use Zoning Districts

The following conditional use zoning districts are established and applied to property as set forth on the Official Zoning Map. Each conditional use district (bearing the designated CU on the Official Zoning Map) corresponds to a general use district. All zoning requirements that apply to the general use district are also applicable to the corresponding conditional use district unless adopted conditions are more restrictive.

#### Residential Districts

R-1-CU	Residential-1
R-2-CU	Residential-2
R-4-CU	Residential-4
R-6-CU	Residential-6
R-10-CU	Residential-10

#### Mixed Use Districts

RX-CU	Residential Mixed Use
OP-CU	Office Park
OX-CU	Office Mixed Use
NX-CU	Neighborhood Mixed Use
CX-CU	Commercial Mixed Use
DX-CU	Downtown Mixed Use
IX-CU	Industrial Mixed Use

#### Special Districts

CM-CU	Conservation Management
AP-CU	Agricultural Productive
IH-CU	Heavy Industrial
MH-CU	Manufactured Housing
CMP-CU	Campus

### Sec. 1.3.3. Overlay Districts

The following overlay districts are established and applied to property as set forth on the Official Zoning Map.

-AOD	Airport Overlay District
-MPOD	Metro-Park Overlay District
-UWPOD	Urban Watershed Protection Overlay District
-FWPOD	Falls Watershed Protection Overlay District
-SWPOD	Swift Creek Watershed Protection Overlay District
-SHOD-1	Special Highway Overlay District -1
-SHOD-2	Special Highway Overlay District -2
-HOD-G	General Historic Overlay District
-HOD-S	Streetside Historic Overlay District
-NCOD	Neighborhood Conservation Overlay District
-TOD	Transit Overlay District
-SRPOD	Special Residential Parking Overlay District

**Sec. 1.3.4. Legacy Districts**

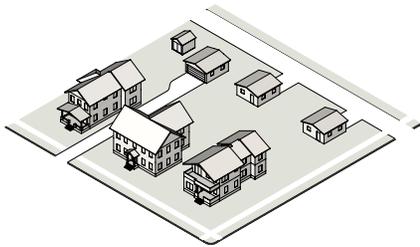
The following districts are referred to as legacy districts. These districts exist in the former Part 10 Zoning Code, and will eventually be replaced with a UDO zoning district. No new legacy district may be added to the Official Zoning Map, nor may any boundary of an existing legacy district be modified. These legacy districts may exist as a general use district or as a conditional use district.

- R-15 Residential-15
- R-20 Residential-20
- R-30 Residential-30
- SpR-30 Special Residential-30
- RB Residential Business
- O&I-1 Office and Instituion-1
- O&I-2 Office and Instituion-2
- O&I-3 Office and Instituion-3
- BC Buffer Commercial
- SC Shopping Center
- NB Neighborhood Business
- BUS Business
- TD Thoroughfare District
- I-1 Industrial-1
- I-2 Industrial-2
- DOD Downtown Overlay District
- PBOD Pedestrian Business Overlay District
- PDD Planned Development District
- SHOD-3 Special Highway Overlay District-3
- SHOD-4 Special Highway Overlay District-4

## Article 1.4. Building Types

### Sec. 1.4.1. Building Type Descriptions

The following building types have been established to allow for detailed regulation of the form within each zoning district. All graphic depictions of building types are for illustrative purposes only.



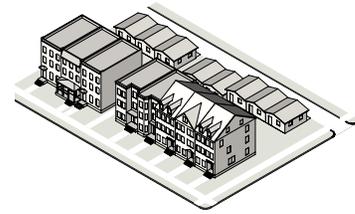
#### A. Detached House

A building constructed to accommodate 1 dwelling unit on a single lot. A series of detached houses as part of a cottage court may be located on a single lot. In a Mixed Use District, a detached house may be used for nonresidential purposes.



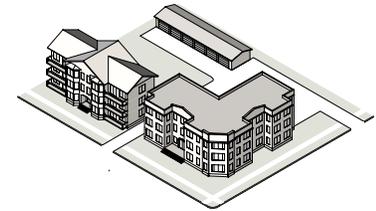
#### B. Attached House

A building constructed to accommodate 2 principal dwelling units on a single lot. A series of attached houses as part of a cottage court may be located on a single lot. In a Mixed Use District, an attached house may be used for nonresidential purposes.



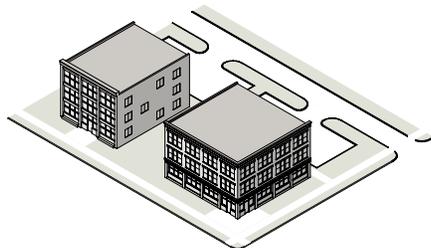
#### C. Townhouse

A building constructed to accommodate 2 or more dwelling units that are horizontally integrated where each dwelling unit is separated vertically by a party wall. Units may be placed on individual lots or the entire building may be placed on a single lot. In a Mixed Use District, a townhouse may be used for nonresidential purposes.



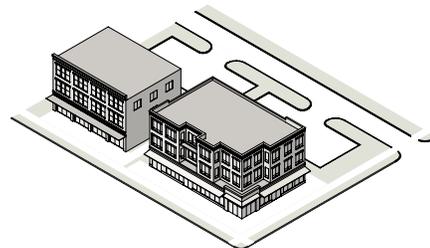
#### D. Apartment

A building constructed to accommodate 3 or more dwelling units that are vertically or horizontally integrated. A common kitchen is allowed. A limited set of nonresidential uses may be allowed in ground floor corner units in a Mixed Use District.



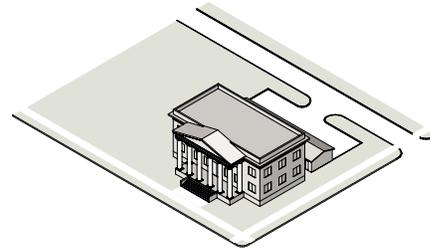
#### E. General Building

A building constructed to accommodate nonresidential uses on all floors.



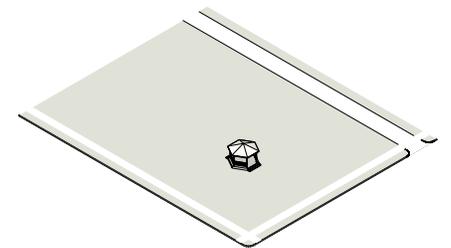
#### F. Mixed Use Building

A multi-story building constructed to accommodate retail on the ground floor and uses in addition to retail on the upper floors.



#### G. Civic Building

A building that exclusively accommodates civic uses, as well as rest homes, day care centers, life care, congregate care, special care facilities and accessory uses.

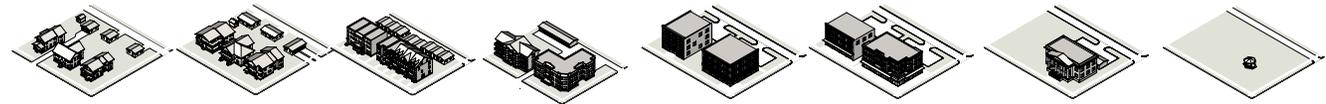


#### H. Open Lot

Open lots are used to accommodate uses with large outdoor or open areas. An open lot can also accommodate open space, parks or natural areas.

### Sec. 1.4.2. Building Types Allowed by District

Building types are allowed by district as set forth below.



	Detached House	Attached House	Townhouse	Apartment	General Building	Mixed Use Building	Civic Building	Open Lot
<b>Residential Districts</b>								
Residential-1 (R-1)	■	--	--	--	--	--	■	■
Residential-2 (R-2)	■	□	--	--	--	--	■	■
Residential-4 (R-4)	■	□	□	--	--	--	■	■
Residential-6 (R-6)	■	■	□ <sup>(1)</sup>	□	--	--	■	■
Residential-10 (R-10)	■	■	■	■	--	--	■	■
<b>Mixed Use Districts</b>								
Residential Mixed Use (RX-)	■	■	■	■	--	--	■	■
Office Park (OP-)	--	--	--	--	■	■	■	■
Office Mixed Use (OX-)	■	■	■	■	■	■	■	■
Neighborhood Mixed Use (NX-)	■	■	■	■	■	■	■	■
Commercial Mixed Use (CX-)	■	■	■	■	■	■	■	■
Downtown Mixed Use (DX-)	■	■	■	■	■	■	■	■
Industrial Mixed Use (IX-)	--	--	--	--	■	■	■	■
<b>Special Districts</b>								
Conservation Management (CM)	--	--	--	--	--	--	--	■
Agricultural Productive (AP)	■	--	--	--	■	--	--	■
Heavy Industrial (IH)	--	--	--	--	■	--	--	■
Manufactured Housing (MH)	<i>See Article 4.5. Manufactured Housing (MH)</i>							
Campus (CMP)	<i>Allowed building types determined on master plan (see Article 4.6. Campus (CMP))</i>							
Planned Development (PD)	<i>Allowed building types determined on master plan (see Article 4.7. Planned Development (PD))</i>							

**KEY:** ■ = Building Type Allowed □ = Building Type Allowed as Part of an Approved Conservation Development -- = Building Type Not allowed

<sup>(1)</sup> In R-6, townhouses approved prior to September 1, 2013 are not considered nonconforming structures or uses.

## Article 1.5. Measurement, Exceptions & General Rules of Applicability

### Sec. 1.5.1. Site

#### A. Defined

A site is any lot or group of contiguous lots owned or functionally controlled by the same person or entity, assembled for the purpose of development.

#### B. Site Area

##### 1. Gross

Gross site area is the total area of a site, including proposed streets or other land required for public use that is attributable to the site, as dedicated by the owner or predecessor in title.

##### 2. Net

Net site area is the area included within the rear, side and front lot lines of the site. Does not include existing or proposed public streets or right-of-way.

#### C. Site Width

Site width is the distance between the side lot lines of the site (generally running perpendicular to a street) measured at the primary street property line along a straight line or along the chord of the property line.

#### D. Site Depth

Site depth is the distance between the front and rear property lines of the site measured along a line midway between the side property lines.

### Sec. 1.5.2. Lot

#### A. Defined

A parcel of land either vacant or occupied intended as a unit for the purpose, whether immediate or for the future, of transfer of ownership or possession or for development.

#### B. Lot Area

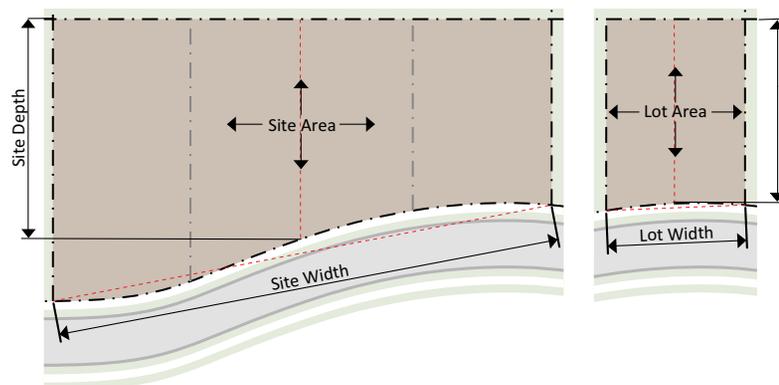
Lot area is the area included within the rear, side and front lot lines. It does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use. District density applies, and may require larger lots than those required for an individual building type.

#### C. Lot Width

Lot width is the distance between the side lot lines (generally running perpendicular to a street) measured at the primary street property line along a straight line or along the chord of the property line.

#### D. Lot Depth

Lot depth is the distance between the front and rear property lines measured along a line midway between the side property lines.



#### E. Lot Width and Depth for Cul-de-Sac Lots

Any lot abutting a cul-de sac in a Residential District where the minimum lot width is not met at the front property line must comply with the following:

1. The minimum lot frontage on a street shall be 20 feet (this dimension may be reduced upon approval of the Public Works Director if a common driveway or other form of shared access is provided); and
2. The minimum lot depth specified shall not be measured from the front property line, but instead measured beginning from the nearest point to front property line where the lot width equals the minimum lot width for the district. The minimum lot depth measured this way shall be 70 feet in R-1, R-2 and R-4, 60 feet in R-6 and 50 feet in R-10.

**F. Density**

1. Residential density is expressed in units per acre and is calculated by dividing the total number of dwelling units by the gross site area.
2. Although minimum lot sizes may allow additional units, density serves as the maximum number of units per acre.
3. Transfers are restricted to properties under the same ownership which are located outside any Watershed Protection Area and in the same development as the dedication for right-of-way less than 60 feet in width.
4. A map showing the property and right-of-way dedication shall be recorded in the Wake County Registry with an indication that the roadway dedication density allowance has been utilized for the particular property prior to recording any subsequent maps in the development.
5. No density transfer shall be allowed if the developer has executed a reimbursement contract.
6. The density transfer is applicable to all those portions of greenway dedicated after September 1, 2013 provided that the dedicators waive their statutory right to withdraw the dedication.
7. The dedicated greenway easement carries the residential density as shown on the Official Zoning Map for that location.
8. When a site is partly within a CM District, density may be transferred from the CM District, which carries the residential density of the contiguous zoning district. If more than 1 zoning district adjoins the CM District, the CM District shall be divided by carrying the boundary lines separating the districts into the CM-zoned area.

**Sec. 1.5.3. Coverage****A. Defined**

Building coverage is the maximum area of a lot that is permitted to be covered by roofed buildings or structures. Building coverage does not include paved areas such as parking lots, driveways or pedestrian walkways.

**B. Intent**

1. Outdoor amenity areas are intended to provide usable on-site open space in both residential and non-residential developments for the healthy enjoyment of occupants, invitees and guests of the development.
2. In more intensely developed urban contexts, outdoor amenity areas are also intended to provide visual breaks.

**C. General Requirements**

1. Where outdoor amenity area is required, it must be provided on-site and must be available for use by or as an amenity for the occupants, invitees and guests of the development.
2. All required outdoor amenity areas must be ADA accessible.
3. Required outdoor amenity area may be met in 1 contiguous open area or in multiple open areas on the lot; however, to receive credit, each area must be at least 10 feet in width and length.
4. Required outdoor amenity area may be located at or above grade.
5. Required outdoor amenity area cannot be parked or driven upon, except for emergency access and permitted temporary events.
6. In all other districts except DX-, required outdoor amenity area may be covered but cannot be enclosed.
7. Above-ground stormwater detention facilities shall not be considered an outdoor amenity area.
8. Tree Conservation areas shall not be considered an outdoor amenity area.

**D. Additional Requirements for Urban Plazas**

Amenity areas located within the DX- District or the NX-, CX- or OX- Districts with an urban frontage, and associated buildings in excess of 4 stories in height must meet all of the following:

1. Amenity areas associated with a general building, or mixed use building that is 50% or more non-residential in floor area must be located contiguous to the public sidewalk and be visually permeable from the public right-of-way. When a mixed use building is more than 50% residential by floor area, only half of the required amenity area must meet this standard.
2. Amenity areas may contain any one of the following: benches, seats, tables,

eating areas, plazas, courtyards, fountains, active recreation areas or public art.

3. Amenity areas installed in conjunction with an apartment or townhouse building type may contain any of the amenities listed above in subsection D.2, as well as courts, pools or fields used for active recreation.
4. All required outdoor amenity areas must provide one linear foot of seating for each 50 square feet of required open space area and one two-inch caliper tree for every 1,000 square feet of required open space area.
5. For all buildings greater than 7 stories in height, the minimum amount of required open space area specified in chapter 3 shall be increased. An additional 50 square feet of amenity area is required for each building story above the seventh story. In no case shall the required amenity area exceed 12% of the gross site area.

## Sec. 1.5.4. Building Setbacks

### A. Setback Types

There are 4 types of setback – primary street setback, side street setback, side setback and rear setback. Through lots are considered to have 2 primary street setbacks.

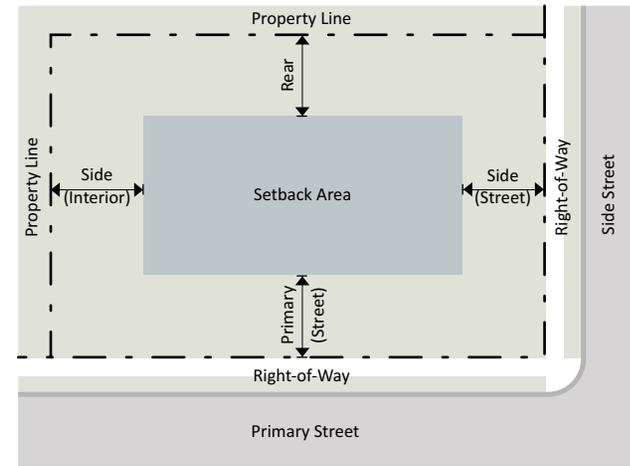
### B. Measurement of Building Setbacks

1. Primary and side street setbacks are measured perpendicular from the edge of the existing or proposed right-of-way, whichever is greater.
2. Side setbacks are measured perpendicular from the side property line.
3. Rear setbacks are measured perpendicular from the rear property line or the edge of the existing or proposed right-of-way, whichever is greater, where there is an alley.

### C. Multiple Street Frontage Lots

A multiple street frontage lot must designate at least 1 primary street. A lot may have more than 1 primary street. The Planning and Development Officer will determine which street or streets are the primary streets based on:

1. The street with the highest street classification;
2. The established orientation of the block;
3. The street abutting the longest face of the block;



4. The street parallel to an alley within the block; and
5. The street that the lot takes its address from.

### D. Setback Encroachments

All buildings and structures must be located at or behind required setbacks, except as listed below. Underground structures covered by the ground may encroach into a required setback.

#### 1. Building Features

- a. Porches, stoops, balconies, galleries and awnings and steps as set forth in *Sec. 1.5.11*.
- b. Chimneys or flues may extend up to 4 feet, provided that such extension is at least 2 feet from the vertical plane of any lot line.
- c. Building eaves, roof overhangs and light shelves may extend up to 5 feet, provided that such extension is at least 2 feet from the vertical plane of any lot line.
- d. Bay windows, oriels, vestibules and similar features that are less than 10 feet wide may extend up to 4 feet, provided that such extension is at least 2 feet from the vertical plane of any lot line.
- e. Unenclosed fire escapes or stairways may extend up to 4 feet into a required side or rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
- f. Unenclosed patios, decks or terraces may extend up to 4 feet into a required side setback, or up to 8 feet into a required rear setback,

provided that such extension is at least 5 feet from the vertical plane of any lot line.

- g. Cornices, belt courses, sills, buttresses or other similar architectural features may project up to 1½ feet.
- h. Handicap ramps may project to the extent necessary to perform their proper function.

## 2. Mechanical Equipment and Utility Lines

- a. Mechanical equipment associated with residential uses, such as HVAC units and security lighting, may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- b. Solar panels or wind turbines may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- c. Rainwater collection or harvesting systems may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- d. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes and transformers and other cabinet structures) may extend into a required rear or side setback.

## E. Other Setback Encroachments

- 1. Fence and walls under *Sec. 7.2.8*.
- 2. Signs under *Article 7.3. Signs*
- 3. Driveways under *Sec. 8.3.5. Site Access*
- 4. Transitional and street protective yards under *Sec. 7.2.4*.

## Sec. 1.5.5. Parking Setbacks

### A. Parking Setback Types

There are 4 types of parking setback – primary street setback, side street setback, side setback and rear setback. Through lots are considered to have 2 primary street setbacks.

### B. Measurement of Parking Setbacks

- 1. Primary and side street setbacks are measured perpendicular from the edge of the existing or proposed right-of-way, whichever is greater.
- 2. Side setbacks are measured perpendicular from the side property line.
- 3. Rear setbacks are measured perpendicular from the rear property line or the edge of the existing or proposed right-of-way, whichever is greater, where there is an alley.

### C. Parking Not Allowed

On-site surface and structured parking must be located behind the parking setback line, where applicable. This requirement does not apply to on-street parking or apply to upper stories of a parking deck.

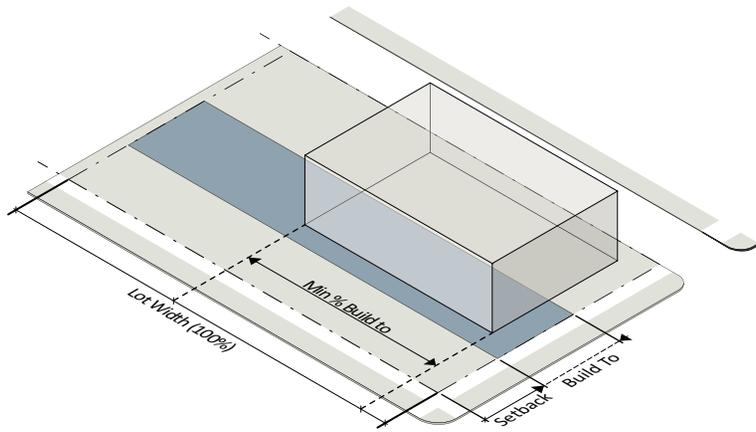
### D. Parking in the Front Setback

- 1. For a detached house or attached house located within a Residential District and used for residential purposes, combined parking and driveway area shall not constitute more than 40% of the area between the front building facade and the front property line. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk.
- 2. Additional parking regulations may be applied with the Special Residential Parking Overlay District (see *Sec. 5.6.1*).

## Sec. 1.5.6. Build-to

### A. Defined

- 1. The build-to is the area on the lot where a certain percentage of the front principal building facade must be located, measured as a minimum and maximum setback range from the edge of the proposed or existing right-of-way, whichever is greater.
- 2. The required percentage specifies the amount of the front building facade that must be located in the build-to, measured based on the width of the building divided by the width of the site or lot.



## B. Intent

1. The build-to is intended to provide a range for building placement that strengthens the street edge along the right-of-way, establishing a sense of enclosure by providing spatial definition adjacent to the street.
2. The building edge can be supplemented by architectural elements and certain tree plantings aligned in a formal rhythm. The harmonious placement of buildings to establish the street edge is a principal means by which the character of an area or district is defined.
3. The build-to range is established to accommodate some flexibility in specific site design while maintaining the established street edge.

## C. General Requirements

1. On corner lots, a building facade must be placed within the build-to for the first 30 feet along the street extending from the block corner.
2. With the exception of parking areas, all structures and uses customarily allowed on the lot are permitted in the build-to area.
3. Any common area is not required to meet the build-to requirements.

## D. Administrative Alternate Findings

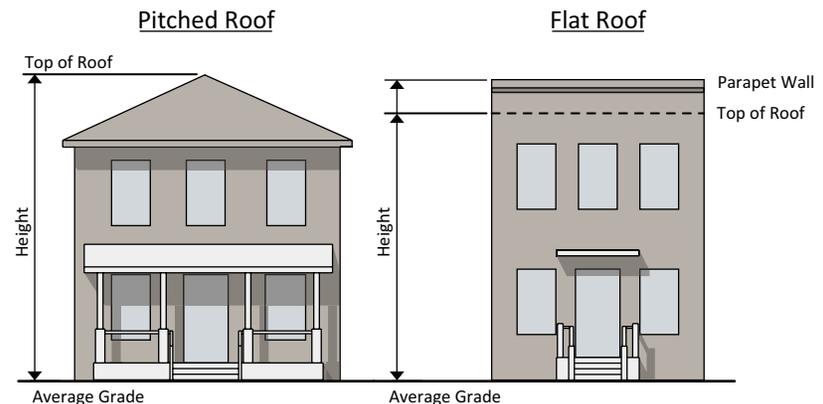
The Planning and Development Officer may in accordance with *Sec. 10.2.17* reduce the build-to requirement, subject to all of the following findings:

1. The approved alternate meets the intent of the build-to regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans;
3. The approved alternate does not substantially negatively alter the character-defining street wall or establish a build-to pattern that is not harmonious with the existing built context;
4. The change in percentage of building that occupies the build-to area or increased setback does not negatively impact pedestrian access, comfort or safety; and
5. Site area that would have otherwise been occupied by buildings is converted to an outdoor amenity area under *Sec. 1.5.3.B*.

## Sec. 1.5.7. Height

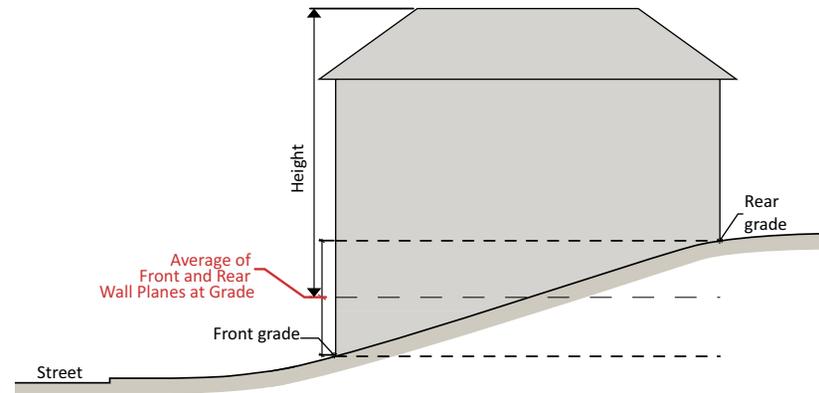
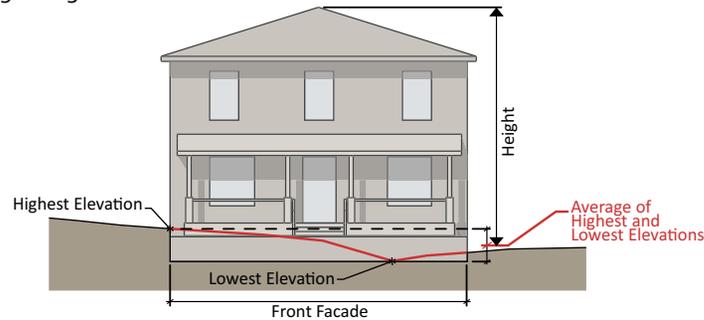
### A. Building Height

1. Building height is measured from average grade in both number of stories and feet to the top of the highest point of a pitched or flat roof, not including a maximum parapet wall encroachment. The maximum height encroachment for a parapet wall is 4 feet for a 3-story building, with 1 additional foot of parapet wall allowed for each additional story thereafter. In no case shall a parapet encroachment be taller than 12 feet.

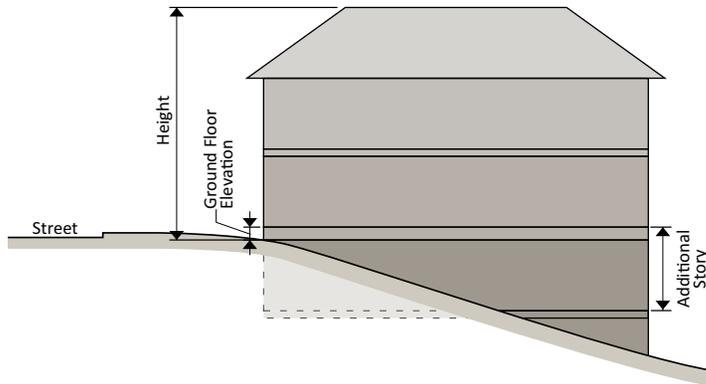


2. Average grade is determined by calculating the average of the highest and lowest elevation along pre-development grade or improved grade (whichever is more restrictive) along the front of the building parallel to the

primary street setback. Where mass-grading has been approved by the City, average grade shall be considered the improved grade following such mass grading.

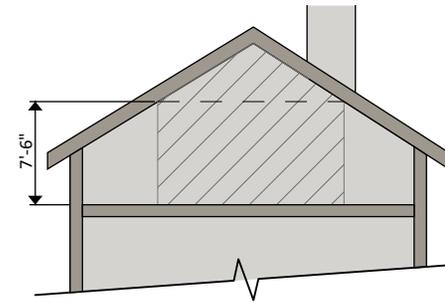


- Where a lot slopes downward from the property line, 1 story that is additional to the specified maximum number of stories may be built on the lower portion of the lot.



- Where the property slope increases to the rear, building height is measured from the average point at grade of the front and rear wall plane.

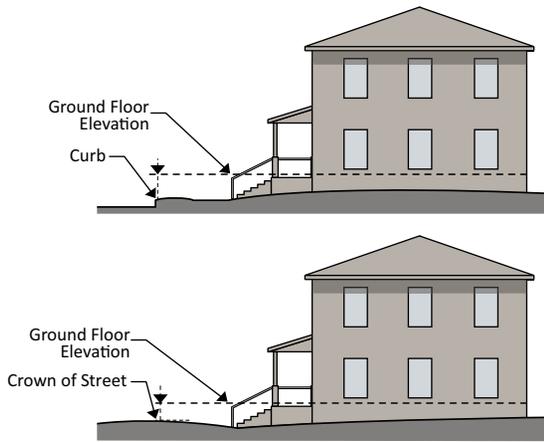
- An attic does not count as a story where 50% or more of the attic floor area has a clear height of less than 7.5 feet; measured from the finished floor to the finished ceiling.



- A basement with 50% or more of its perimeter wall area (measured from finished floor elevation) surrounded by finished grade is not considered a story.

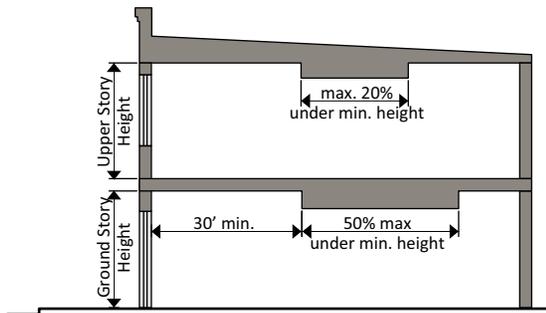
**B. Ground Floor Elevation**

Ground floor elevation is measured from the average curb level of the adjoining street, or if no curb exists, the average level of the center crown of the street to the top of the finished ground floor.



### C. Story Height

1. Story height is measured from the top of the finished floor to the ceiling above.
2. Minimum ground story height applies to the first 30 feet of the building measured inward from the street facing facade. At least 50% of the ground story must meet the minimum ground story height provisions.
3. Where applicable, at least 80% of each upper story must meet the required minimum upper story height provisions.



### D. Height Encroachments

Any height encroachment not specifically listed is expressly prohibited except where the Planning and Development Officer determines that the encroachment is similar to a permitted encroachment listed below.

1. The maximum height limits of the district do not apply to spires, belfries, cupolas, domes, bell towers, monuments, water tanks/towers or other similar structures not intended for human occupancy which, by design or function, must exceed the established height limits.
2. The following accessory structures may exceed the established height limits, except when located within an -AOD, provided they do not exceed the maximum building height by more than 12 feet:
  - a. Chimney, flue or vent stack;
  - b. Unenclosed deck, patio or shade structure;
  - c. Rooftop garden, landscaping;
  - d. Flagpole;
  - e. Parapet wall;
  - f. Rainwater collection or harvesting system; and
  - g. Solar panels, wind turbines.
3. The following accessory structures may exceed the established height limits, except when located within an -AOD, provided they do not exceed the maximum building height by more than 12 feet, do not occupy more than 25% of the roof area and are set back at least 10 feet from the edge of the roof:
  - a. Amateur communications tower;
  - b. Cooling tower;
  - c. Elevator penthouse or bulkhead;
  - d. Greenhouse;
  - e. Mechanical equipment;
  - f. Skylights;
  - g. Elevator or stairway access to roof; and
  - h. Tank designed to hold liquids, except as otherwise permitted.
4. An accessory structure located on the roof must not be used for any purpose other than a use incidental to the principal use of the building except for telecommunication facilities.

## Sec. 1.5.8. Pedestrian Access

### A. Intent

1. The street-facing entrance regulations are intended to concentrate pedestrian activity along the street edge and provide an easily identifiable and conveniently-located entrance for residents, visitors and patrons accessing a building as pedestrians from the street.
2. Access points should be located or identified in a manner visible to the pedestrian from the street and be accessible via a direct path.

### B. General Requirements

1. An entrance installed after September 1, 2013 providing both ingress and egress, operable to residents or customers at all times, is required to meet the street facing entrance requirements. Additional entrances from another street, pedestrian area or internal parking area are permitted.
2. The entrance spacing requirements must be met for each building, but are not applicable to adjacent buildings.
3. An angled entrance may be provided at either corner of a building along the street to meet the street-facing entrance requirements.

### C. Administrative Alternate Findings

The Planning and Development Officer may in accordance with *Sec. 10.2.17*. allow a non-street-facing entrance, subject to all of the following findings:

1. The approved alternate meets the intent of the street-facing entrance regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans;
3. The pedestrian access point is easily identifiable by pedestrians, customers and visitors;
4. Recessed or projecting entries or building elements have been incorporated into the design of the building to enhance visibility of the street-facing entrance; and
5. The pedestrian route from the street and bus stops and other modes of public transportation to the entrance is safe, convenient and direct.

## Sec. 1.5.9. Transparency

### A. Intent

The transparency requirements are intended to lend visual interest to street-facing building facades for both pedestrians and building occupants and minimize blank wall areas. This is not applicable to residential uses.

### B. General Requirements

1. The minimum percentage of windows and doors that must cover a ground story facade is measured between 0 and 12 feet above the adjacent sidewalk. More than 50% of required the transparency must be located between 3 and 8 feet of the building facade.
2. The minimum percentage of windows and doors that must cover an upper story facade is measured from top of the finished floor to the top of the finished floor above. When there is no floor above, upper story transparency is measured from the top of the finished floor to the top of the wall plate.
3. In a mixed use building, or general building where an Urban Frontage is applied, a minimum of 60% of the street-facing, street-level window pane surface area must allow views into the ground story use for a depth of at least 8 feet. Windows shall not be made opaque by non-operable window treatments (except curtains, blinds or shades within the conditioned space).
4. Glass shall be considered transparent where it has a transparency higher than 80% and external reflectance of less than 15%. Glass on upper stories may have any level of transparency and external reflectance.



### C. Administrative Alternate Findings

The Planning and Development Officer may in accordance with *Sec. 10.2.17* reduce the required transparency, subject to all of the following findings:

1. The approved alternate meets the intent of the transparency requirements;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans; and
3. The street-facing building facade utilizes other architectural treatments to create visual interest to offset the reduction in transparency.

## Sec. 1.5.10. Blank Wall Area

### A. Defined

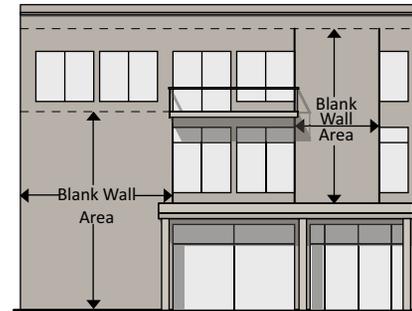
1. Blank wall area means any portion of the exterior facade of the building that does not include a substantial material change; windows or doors; or columns, pilasters or other articulation greater than 12 inches in depth.
2. Substantial material change means a change between materials such as wood, metal, glass, brick, architectural block, stone or stucco. Substantial material change should occur at an inside corner, where feasible. Paint color is not a substantial material change.

### B. Intent

1. The blank wall area regulations are intended to prevent large, monotonous expanses of undifferentiated building mass.
2. The level of architectural detail should be most intense at the street level, where it is within view of the pedestrians on the sidewalk.

### C. General Requirements

1. Blank wall area applies in both a vertical and horizontal direction.
2. Blank wall area applies to both ground and upper stories.



### D. Administrative Alternate Findings

The Planning and Development Officer may in accordance with *Sec. 10.2.17* approve additional blank wall, subject to all of the following findings:

1. The approved alternate meets the intent of the blank wall area regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans;
3. The increase in blank wall area is offset by additional architectural treatments and increased vertical landscaping; and
4. The amount of blank wall area for buildings located on an Urban Frontage should not be more than 40%.

## Sec. 1.5.11. Building Elements

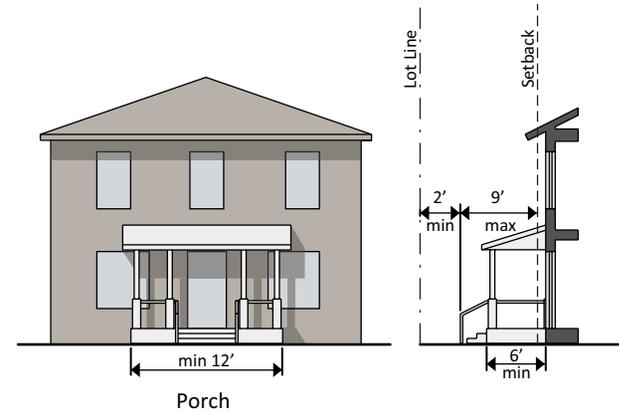
### A. Intent

The standards in this section are intended to ensure that when building elements are provided, they are of sufficient size to be functional and are not too close to adjacent properties.

### B. Porch

A raised structure attached to a building, forming a covered entrance to a doorway.

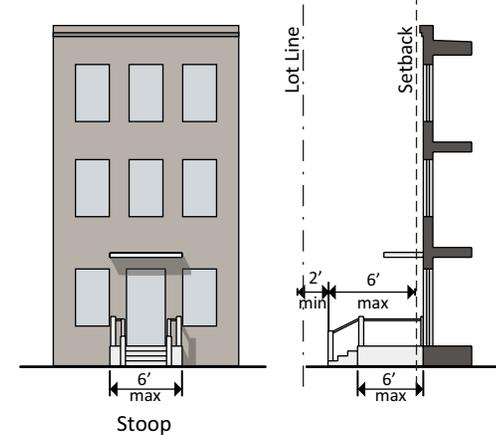
1. A porch must be at least 6 feet deep (not including the steps).
2. A porch must be contiguous with a width not less than 12 feet.
3. A porch must be roofed but cannot be fully enclosed.
4. A porch may extend up to 9 feet, including the steps, into a required setback, provided that such extension is at least 2 feet from the vertical plane of any lot line.



### C. Stoop

A small raised platform that serves as an entrance to a building.

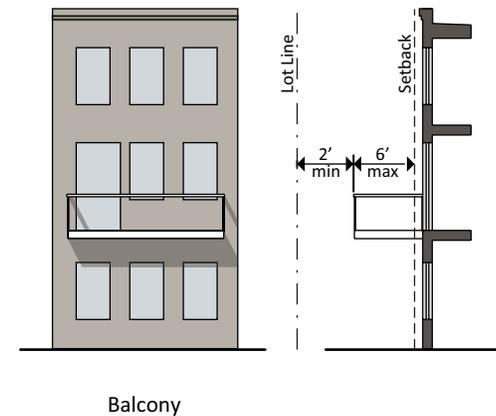
1. A stoop must be no more than 6 feet deep (not including the steps) and 6 feet wide.
2. A stoop may be covered but cannot be fully enclosed.
3. A stoop may extend up to 6 feet into a required setback, provided that the landing is at least 2 feet from the vertical plane of any lot line.



### D. Balcony

A platform projecting from the wall of a building with a railing along its outer edge, often accessible from a door or window.

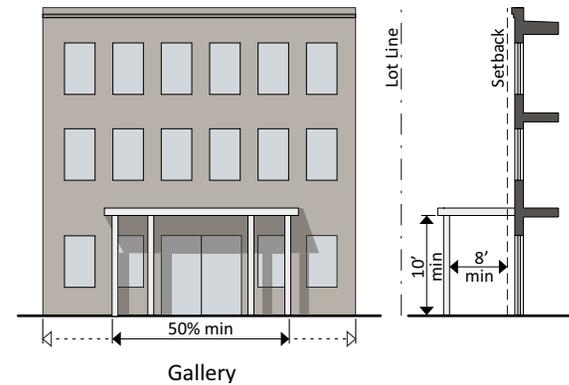
1. A balcony may extend up to 6 feet into a required setback, provided that such extension is at least 2 feet from the vertical plane of any lot line.
2. A balcony may be covered but cannot be fully enclosed.



## E. Gallery

A covered passage extending along the outside wall of a building supported by arches or columns that is open on 1 side.

1. A gallery must have a clear depth from the support columns to the building's facade of at least 8 feet and a clear height above the sidewalk of at least 10 feet.
2. A gallery must be contiguous and extend over at least 50% of the width of the building facade from which it projects.
3. A gallery may extend into a required street setback.
4. A gallery may not extend into any required side setback.



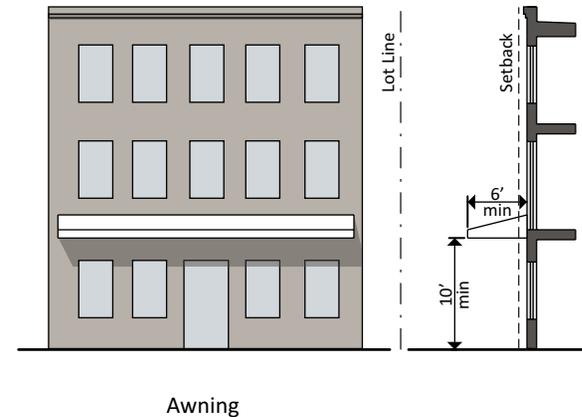
## F. Awning

A wall-mounted, cantilevered structure providing shade and cover from the weather for a sidewalk.

1. An awning must be a minimum of 10 feet clear height above the sidewalk and must have a minimum depth of 6 feet.
2. An awning may extend into a required street setback.

## G. Right-of-Way Encroachment

A building element may encroach into the right-of-way, provided a license for the use of the right-of-way is obtained from the City, which is terminable at will by the City.



## H. Administrative Alternate Findings

The Planning and Development Officer may in accordance with *Sec. 10.2.17*, approve an alternate building element regulation, subject to all of the following findings:

1. The approved alternate meets the intent of the building element regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans;
3. The building element is of equal or greater area as the required building element or otherwise provides equivalent functionality;
4. The approved alternate does not negatively impact pedestrian circulation; and
5. Applicable North Carolina Building Code regulations are met.

## Sec. 1.5.12. Private Residential Garage Parking Options

### A. Intent

1. The intent of the residential garage options is to minimize the visual impact of street-facing garage doors.
2. Where garage doors can be seen from the street, measures should be taken to reduce the visual impact of the doors.
3. Measures include garage doors set back from the front wall plane, architectural treatments, translucent garage doors, single doors, projecting elements over the garage doors (such as bay windows) and limits on the total number of doors that face the street.
4. Where garage doors are located perpendicular to the street, measures should be taken to reduce the visual impact of the side wall that faces the street. Measures include architectural treatments, changes in material, landscaping, vegetation or the installation of windows.

### B. Applicability

1. Any private residential garage constructed after September 1, 2013 must meet the standards of this section. Alternative compliance may be considered by the Planning and Development Officer, consistent with the intent of this section.
2. In addition to the standards provided in this section, attached and detached garages must meet all applicable requirements for either principal buildings or accessory structures as set forth in this UDO.
3. Any garage constructed prior to September 1, 2013 that does not comply with these private residential garage parking options is not considered non-conforming. If a pre-existing garage is voluntarily demolished, any new garage must be constructed in compliance with these regulations. If a pre-existing garage that does not meet these regulations is destroyed following a casualty, the garage may be reconstructed to its previous state.

### C. Administrative Alternate Findings

The Planning and Development Officer may in accordance with *Sec. 10.2.17* approve an alternate garage option, subject to all of the following findings:

1. The approved alternate meets the intent of the garage option regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans;
3. The approved alternate does not negatively impact pedestrian circulation and safety;
4. Measures are taken to mitigate the visual impact of the garage design; and
5. The required garage setbacks are met.

## D. Detached House and Attached House

On lots of less than 1 acre, garage placement must match one of the following standards.

### 1. Front-facing, Attached to House

- Garage doors are oriented towards the front wall plane.
- For garage doors positioned 6 feet or less behind the front wall plane of habitable space, garage doors may not comprise more than 50% of the overall width of the front-facing wall planes of the house.
- For garage doors positioned more than 6 feet behind the front wall plane of habitable space, garage doors may not comprise more than 66% of the overall width of the front-facing wall planes of the house.

### 2. Side-facing, Attached to House

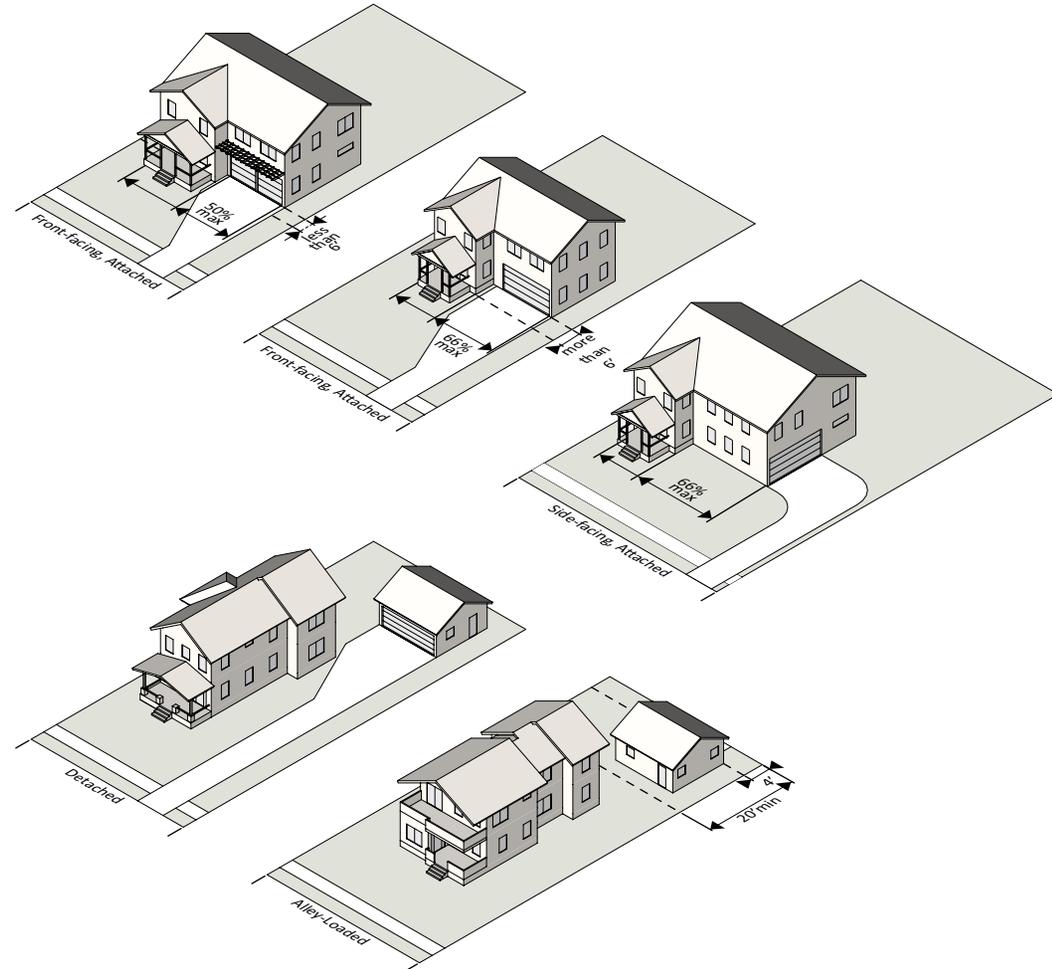
- Garage doors are oriented perpendicular to the front wall plane.
- The garage may not comprise more than 66% of the overall width of all front-facing wall planes of the house.

### 3. Detached

Garage is placed entirely to the rear of the house.

### 4. Alley-Loaded

- Garage is placed entirely to the rear of the house and is alley-accessed.
- Garage doors must face the alley.
- The garage must either be located 4 feet from the alley right-of-way or be a minimum of 20 feet from the alley right-of-way.
- Where parking spaces are located between the garage and the alley, the garage must be located at least 20 feet from the alley right-of-way.



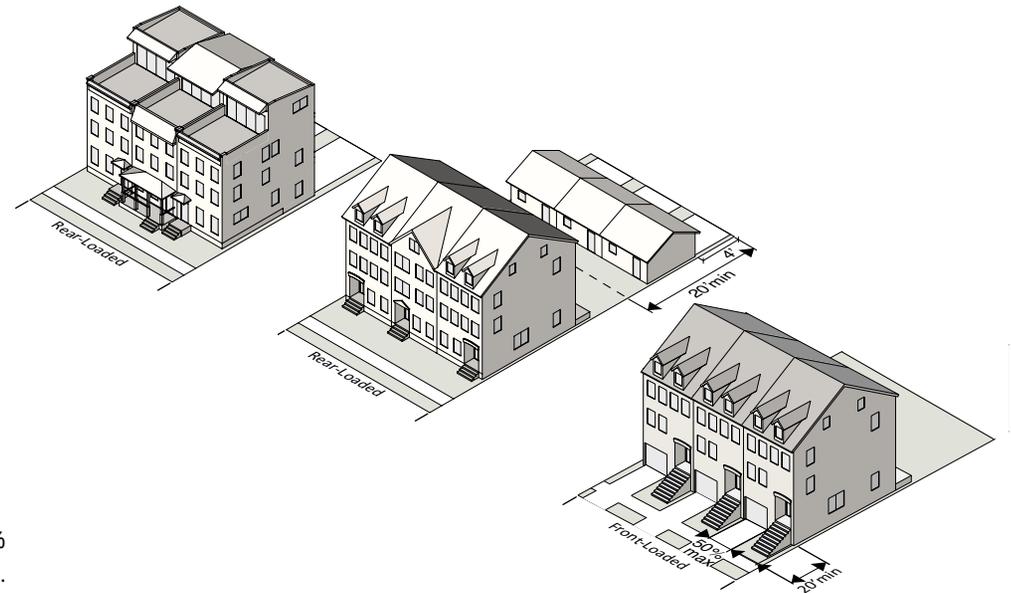
## E. Townhouse

### 1. Rear-Loaded

- Garage is placed entirely to the rear of the townhouse and is rear-accessed. Garage can be attached or detached.
- Garage doors must face the alley or rear access drive.
- The garage must either be located 4 feet from the alley right-of-way or rear access drive or be a minimum of 20 feet from the alley right-of-way or rear access drive
- Where parking spaces are located between the garage and the alley or rear access drive, the garage must be located at least 20 feet from the alley or rear access drive.

### 2. Front-Loaded

- Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
- Combined parking and driveway area shall not constitute more than 50% of the area between the front building facade and the front property line.
- Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. To provide sufficient depth, the garage doors must be set back at least 20 feet from the sidewalk.
- Garage doors must be recessed at least 1 foot behind the front wall plane or a second-story element over the garage doors must be provided that extends at least 1 foot beyond the front wall plane.



*PAGE INTENTIONALLY LEFT BLANK*

# CHAPTER 2. RESIDENTIAL DISTRICTS

## Article 2.1. General Provisions 2 – 2

Sec. 2.1.1. District Intent Statements ..... 2 – 2

Sec. 2.1.2. Housing Options ..... 2 – 3

Sec. 2.1.3. Additional Housing Patterns ..... 2 – 3

## Article 2.2. Conventional Development Option 2 – 4

Sec. 2.2.1. Detached House ..... 2 – 4

Sec. 2.2.2. Attached House ..... 2 – 5

Sec. 2.2.3. Townhouse ..... 2 – 6

Sec. 2.2.4. Apartment ..... 2 – 7

Sec. 2.2.5. Civic Building ..... 2 – 8

Sec. 2.2.6. Open Lot ..... 2 – 9

Sec. 2.2.7. Residential Infill Compatibility..... 2 – 10

## Article 2.3. Compact Development 2 – 12

Sec. 2.3.1. General Requirements ..... 2 – 12

Sec. 2.3.2. Detached House ..... 2 – 13

Sec. 2.3.3. Attached House ..... 2 – 14

Sec. 2.3.4. Townhouse ..... 2 – 15

Sec. 2.3.5. Apartment ..... 2 – 16

Sec. 2.3.6. Civic Building ..... 2 – 17

Sec. 2.3.7. Open Lot..... 2 – 18

## Article 2.4. Conservation Development Option 2 – 19

Sec. 2.4.1. General Requirements ..... 2 – 19

Sec. 2.4.2. Detached House ..... 2 – 20

Sec. 2.4.3. Attached House ..... 2 – 21

Sec. 2.4.4. Townhouse ..... 2 – 22

Sec. 2.4.5. Apartment..... 2 – 23

Sec. 2.4.6. Civic Building ..... 2 – 24

Sec. 2.4.7. Open Lot..... 2 – 25

## Article 2.5. Common Open Space Requirements 2 – 26

Sec. 2.5.1. Amount of Open Space ..... 2 – 26

Sec. 2.5.2. Open Space Allocation..... 2 – 26

Sec. 2.5.3. Configuration of Open Space ..... 2 – 26

Sec. 2.5.4. Allowed Uses of Open Space..... 2 – 26

Sec. 2.5.5. Stormwater Control Measures ..... 2 – 27

Sec. 2.5.6. Prohibited Uses of Open Space ..... 2 – 27

Sec. 2.5.7. Ownership and Management of Open Space..... 2 – 27

## Article 2.6. Additional Housing Patterns 2 – 28

Sec. 2.6.1. Cottage Court ..... 2 – 28

Sec. 2.6.2. Detached House Additions ..... 2 – 30

## Article 2.1. General Provisions

### Sec. 2.1.1. District Intent Statements

#### A. General Purpose

1. The intent of the Residential Districts is to protect established residential neighborhoods as well as promote planned and efficient future residential developments.
2. The building type design and dimensional standards and allowed uses work together to promote desirable residential neighborhoods.
3. The district provisions discourage any use that would substantially interfere with the residential nature of the district. Compatible park, open space, utility and civic uses are permitted in Residential Districts.

#### B. Residential-1 (R-1)

1. Subject to the density restriction of 1 unit per acre, R-1 allows single-unit living in a detached house with a minimum lot size of 40,000 square feet.
2. Smaller minimum lot sizes are permitted as part of a compact development.
3. Smaller lot sizes and increased density as part of a conservation development are allowed in exchange for preserving common open space.

#### C. Residential-2 (R-2)

1. Subject to the density restriction of 2 units per acre, R-2 allows single-unit living in a detached house with a minimum lot size of 20,000 square feet.
2. Smaller minimum lot sizes are permitted as part of a compact development.
3. Additional building types, smaller lot sizes and increased density as part of a conservation development are allowed in exchange for preserving common open space.

#### D. Residential-4 (R-4)

1. Subject to the density restriction of 4 units per acre, R-4 allows single-unit living in a detached house with a minimum lot size of 10,000 square feet.
2. Decreased minimum lot sizes are permitted as part of a compact development.

3. Additional building types, smaller lot sizes and increased density as part of a conservation development are allowed in exchange for preserving common open space.

#### E. Residential-6 (R-6)

1. Subject to the density restriction of 6 units per acre, R-6 allows single-unit living in a detached house with a minimum lot size of 6,000 square feet and 2-unit living in an attached house with a minimum lot size of 9,000 square feet.
2. Smaller minimum lot sizes are permitted as part of a compact development.
3. Additional building types, smaller lot sizes and increased density as part of a conservation development are allowed in exchange for preserving common open space.

#### F. Residential-10 (R-10)

1. Subject to the density restriction of 10 units per acre, R-10 allows single-unit living in a detached house with a minimum lot size of 4,000 square feet and 2-unit living in an attached house with a minimum lot size of 6,000 square feet. Multi-unit living is also allowed in a townhouse or apartment.
2. Smaller minimum lot sizes are permitted as part of a compact development.
3. Smaller lot sizes and increased density as part of a conservation development are allowed in exchange for preserving common open space.

## Sec. 2.1.2. Housing Options

### A. Conventional Development Option (see Article 2.2. Conventional Development Option)

1. Conventional is a pattern of residential development that provides a majority of property owners with substantial yards on their own property.
2. Under the conventional option no preserved common open space is required and the minimum lot size is limited to the lot size for the respective district.

### B. Compact Development Option (see Article 2.3. Compact Development)

1. A compact development permits a reduction in lot size for residential subdivisions in exchange for an increase in common open space. This allows for efficient residential subdivisions and ample amenity area for the residents.
2. Size thresholds are district-based and are listed in Sec. 2.3.1. For projects under these minimum size thresholds, only the conventional option can be used.
3. Density is regulated by the zoning district. Where the Conservation Development Option permits additional density, the Compact Development option does not.
4. Applicants that choose the Compact Development option must set aside 20% of the total project area as common open space. Requirements for the configuration, use and management of common open space are set forth in Article 2.5. *Common Open Space Requirements*

### C. Conservation Development Option (see Article 2.4. Conservation Development Option)

1. A conservation development trades smaller lot sizes (with reduced setbacks) and additional density in exchange for preserving common open space. This allows for more efficient layout of lots, streets and utilities, promotes a mix of housing and protects the natural character of an area through the preservation of open space, recreation areas, environmental features and scenic vistas.
2. A conservation development must be a minimum size to ensure sufficient common open space can be incorporated into the subdivision design.

3. Size thresholds are district-based and are listed in Sec. 2.4.1. For projects under these minimum size thresholds, only the conventional option can be used.
4. Applicants that choose to use the conservation development option must set aside 40% of the total project area as common open space. Requirements for the configuration, use and management of common open space are set forth in Article 2.5. *Common Open Space Requirements*.

## Sec. 2.1.3. Additional Housing Patterns

### A. Cottage Court (See Sec. 2.6.1.)

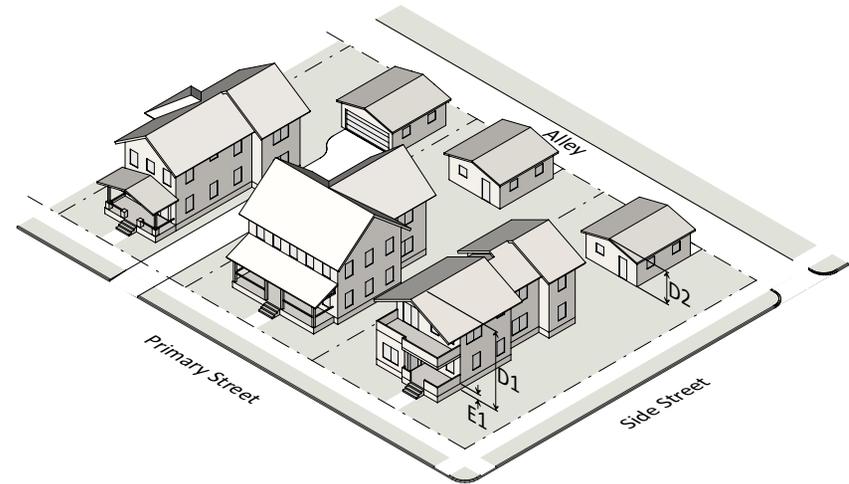
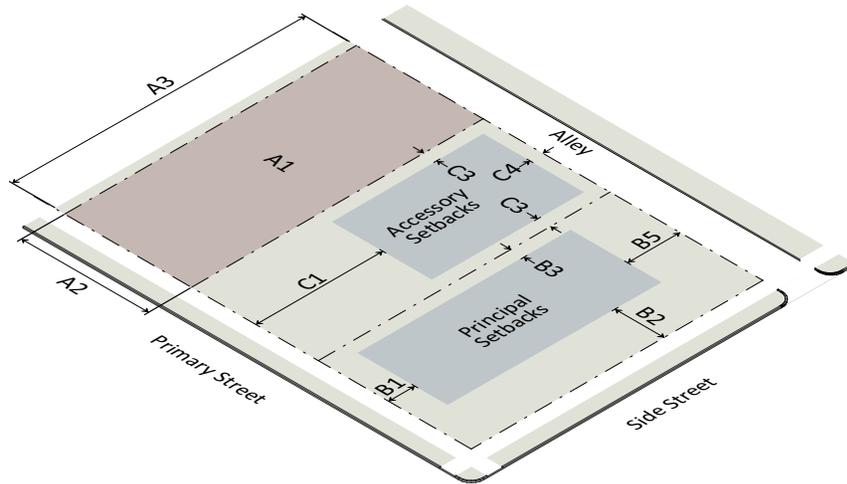
A cottage court is a group of small detached houses centered around a common open space or courtyard. The central court enhances the character of the area through the provision of consolidated open space.

### B. Detached House Conversions (See Sec. 2.6.2.)

A detached house addition is when an existing detached structure is expanded and converted into an attached building or apartment building. Additional regulations are required for these conversions.

## Article 2.2. Conventional Development Option

### Sec. 2.2.1. Detached House

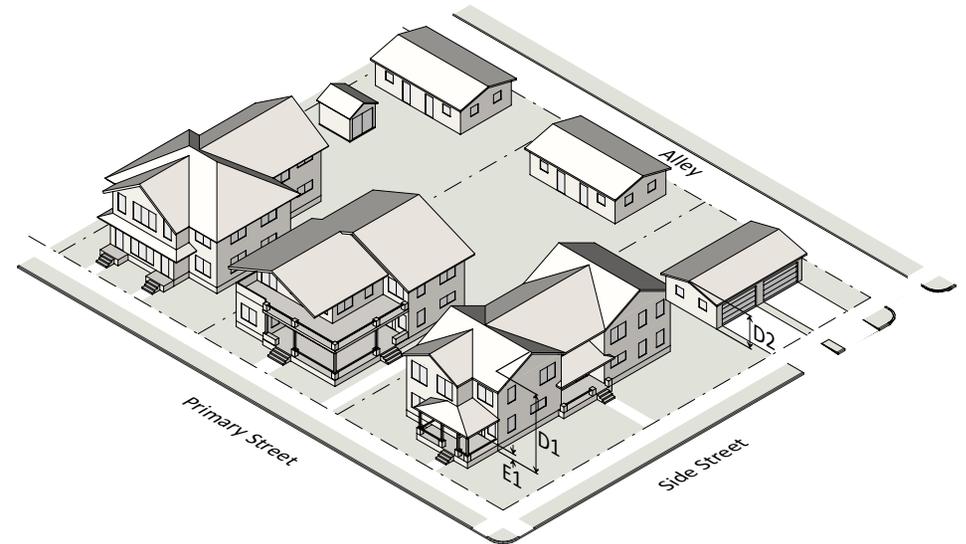
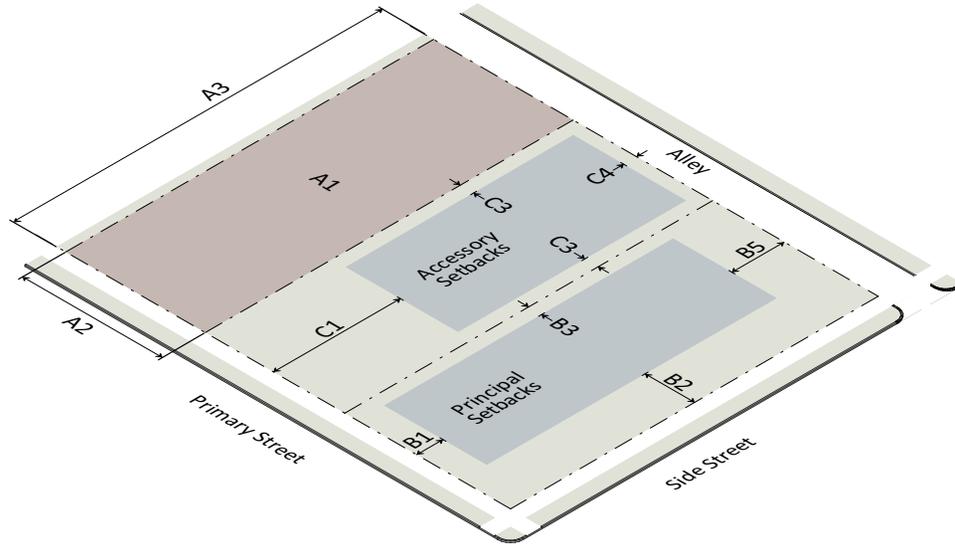


	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	40,000 sf	20,000 sf	10,000 sf	6,000 sf	4,000 sf
A2 Width - interior lot (min)	100'	80'	65'	50'	45'
A2 Width - corner lot (min)	100'	80'	80'	65'	60'
A3 Depth (min)	100'	100'	100'	80'	60'
A4 Density (max)	1 u/a	2 u/a	4 u/a	6 u/a	10 u/a
<b>B. Principal Building Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	15'	15'	15'	10'	10'
B3 From side lot line (min)	10'	10'	10'	5'	5'
B4 Sum of side setbacks (min)	20'	20'	20'	15'	10'
B5 From rear lot line (min)	30'	30'	30'	20'	20'
B6 Residential infill rules may apply (see Sec. 2.2.7.)	no	no	yes	yes	yes
<b>C. Accessory Structure Setbacks</b>					
C1 From primary street (min)	50'	50'	50'	50'	50'
C2 From side street (min)	20'	20'	20'	20'	20'
C3 From side lot line (min)	10'	5'	5'	5'	5'
C4 From rear lot line (min)	10'	5'	5'	5'	5'
C4 From alley, garage only (min)	n/a	n/a	4' or 20' min	4' or 20' min	4' or 20' min

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 Principal building (max)	40'/ 3 stories				
D2 Accessory structure (max)	25'	25'	25'	25'	25'
D3 Residential infill rules may apply (see Sec. 2.2.7.)	no	no	yes	yes	yes
<b>E. Ground Floor Elevation</b>					
E1 20' or less from front property line (min)	2'	2'	2'	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a	n/a	n/a	n/a
<b>F. Allowed Building Elements</b>					
Porch, stoop					
Balcony					

See Sec. 1.5.11 for specific building element requirements.

**Sec. 2.2.2. Attached House**

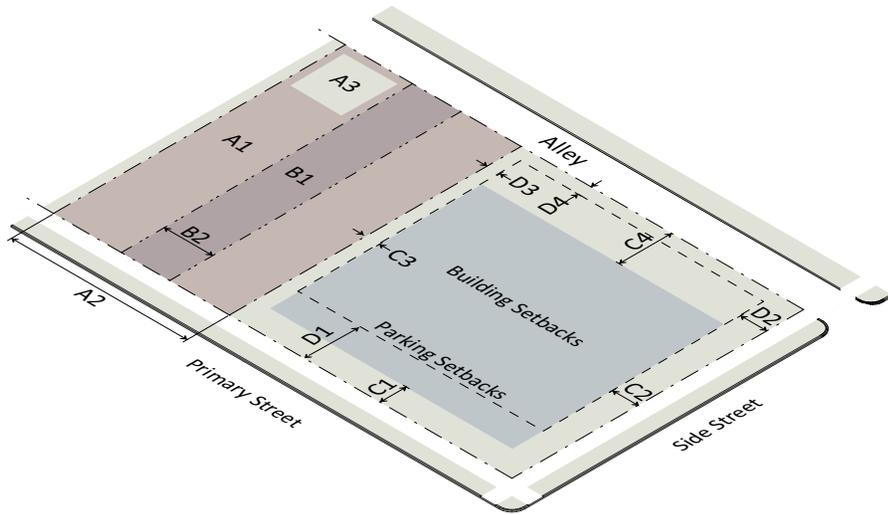


	R-6	R-10
<b>A. Lot Dimensions</b>		
A1 Area (min)	9,000 sf	6,000 sf
A2 Width - interior lot (min)	60'	50'
A2 Width - corner lot (min)	80'	65'
A3 Depth (min)	80'	60'
A4 Density (max)	6 u/a	10 u/a
<b>B. Principal Building Setbacks</b>		
B1 From primary street (min)	10'	10'
B2 From side street (min)	10'	10'
B3 From side lot line (min)	5'	5'
B4 Sum of side setbacks (min)	15'	10'
B5 From rear lot line (min)	20'	20'
B6 Residential infill rules may apply (see Sec. 2.2.7.)	yes	yes
<b>C. Accessory Structure Setbacks</b>		
C1 From primary street (min)	50'	50'
C2 From side street (min)	20'	20'
C3 From side lot line (min)	5'	5'
C4 From rear lot line (min)	5'	5'
C4 From alley, garage only (min)	4' or 20' min	4' or 20' min

	R-6	R-10
<b>D. Height</b>		
D1 Principal building (max)	40'/3 stories	40'/3 stories
D2 Accessory structure (max)	25'	25'
D3 Residential infill rules may apply (see Sec. 2.2.7.)	yes	yes
<b>E. Ground Floor Elevation</b>		
E1 20' or less from front property line (min)	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a
<b>F. Allowed Building Elements</b>		
Porch, stoop		
Balcony		

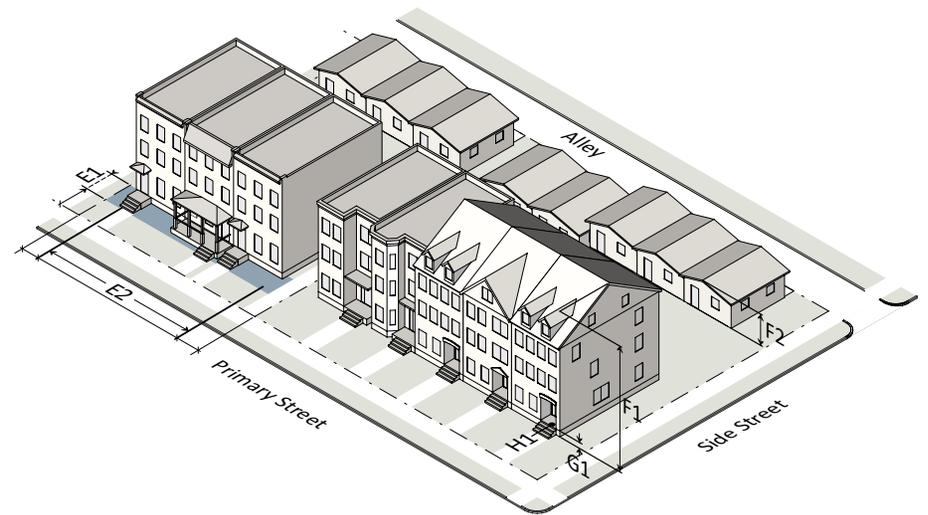
See Sec. 1.5.11. for specific building element requirements.

### Sec. 2.2.3. Townhouse



**R-10**

<b>A. Site Dimensions</b>		
A1	Net site area (min)	3,300 sf
A2	Width (min)	44'
A3	Outdoor amenity area (min)	10%
A4	Density (max)	10 u/a
<b>B. Lot Dimensions</b>		
B1	Area (min)	n/a
B2	Width (min)	16'
<b>C. Building/Structure Setbacks</b>		
C1	From primary street (min)	10'
C2	From side street (min)	10'
C3	From side lot line (min)	0' or 6'
C4	From rear lot line (min)	20'
C4	From alley	4' or 20' min
C5	Residential infill rules may apply (see Sec. 2.2.7.)	yes
<b>D. Parking Setbacks</b>		
D1	From primary street (min)	20'
D2	From side street (min)	10'
D3	From side (min)	0' or 3'
D4	From rear lot line (min)	3'
D4	From alley, garage only (min)	4'

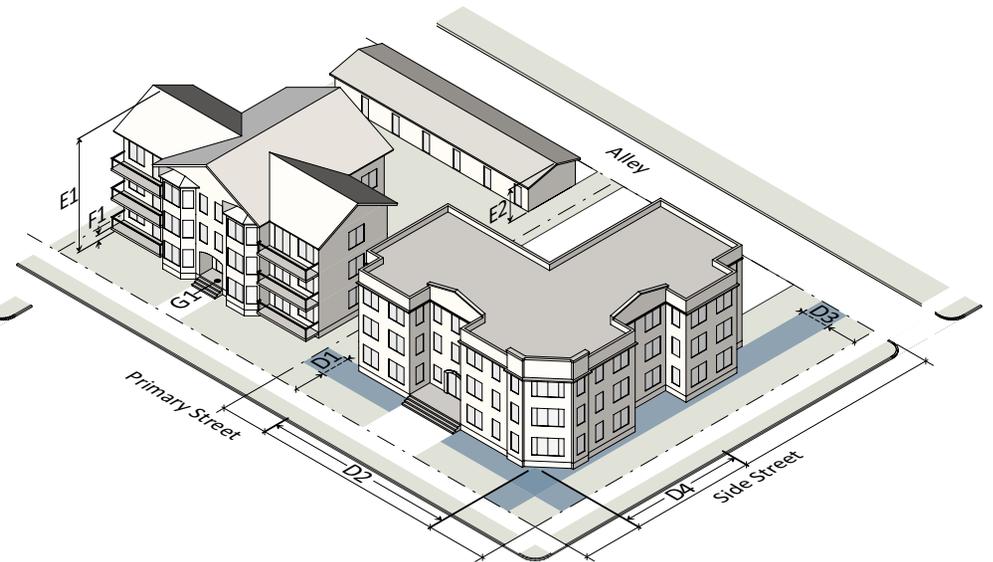
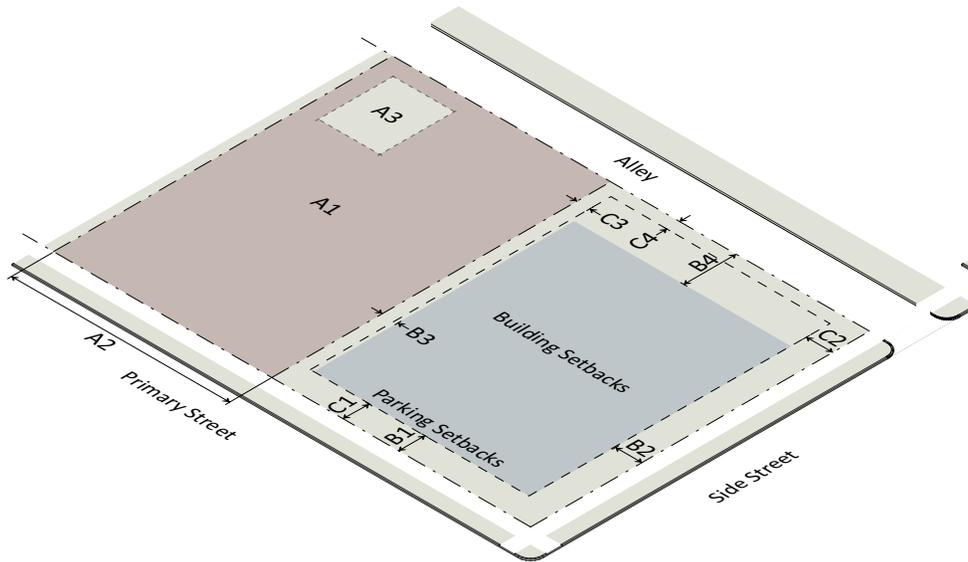


**R-10**

<b>E. Build-to (Site)</b>		
E1	Primary street build-to (min/max)	10'/30'
E2	Building width in primary build-to (min)	70%
<b>F. Height</b>		
F1	Principal building (max)	45'/3 stories
F2	Accessory structure (max)	25'
F3	Residential infill rules may apply (see Sec. 2.2.7.)	yes
<b>G. Ground Floor Elevation</b>		
G1	Within build-to (min)	2'
G1	Outside of build-to (min)	n/a
<b>H. Pedestrian Access</b>		
H1	Street-facing entrance required for units fronting the street	yes
<b>I. Allowed Building Elements</b>		
Porch, stoop		
Balcony		

See Sec. 1.5.11. for specific building element requirements.

### Sec. 2.2.4. Apartment



#### R-10

##### A. Lot Dimensions

A1	Area (min)	15,000 sf
A2	Width (min)	100'
A3	Outdoor amenity area (min)	10%
A4	Density (max)	10 u/a

##### B. Building/Structure Setbacks

B1	From primary street (min)	10'
B2	From side street (min)	10'
B3	From side lot line (min)	0' or 6'
B4	From rear lot line (min)	20'
B4	From alley	4' or 20' min
B5	Residential infill rules may apply (see <i>Sec. 2.2.7.</i> )	yes

##### C. Parking Setbacks

C1	From primary street (min)	10'
C2	From side street (min)	10'
C3	From side/rear lot line (min)	0' or 3'
C4	From rear lot line (min)	3'
C4	From alley, garage only (min)	4'

#### R-10

##### D. Build-to (Site)

D1	Primary street build-to (min/max)	10'/30'
D2	Building width in primary build-to (min)	70%
D3	Side street build-to (min/max)	10'/30'
D4	Building width in side build-to (min)	35%

##### E. Height

E1	Principal building (max)	45'/3 stories
E2	Accessory structure (max)	25'
E3	Residential infill rules may apply (see <i>Sec. 2.2.7.</i> )	yes

##### F. Ground Floor Elevation

F1	Within build-to (min)	2'
F1	Outside of build-to (min)	n/a

##### G. Pedestrian Access

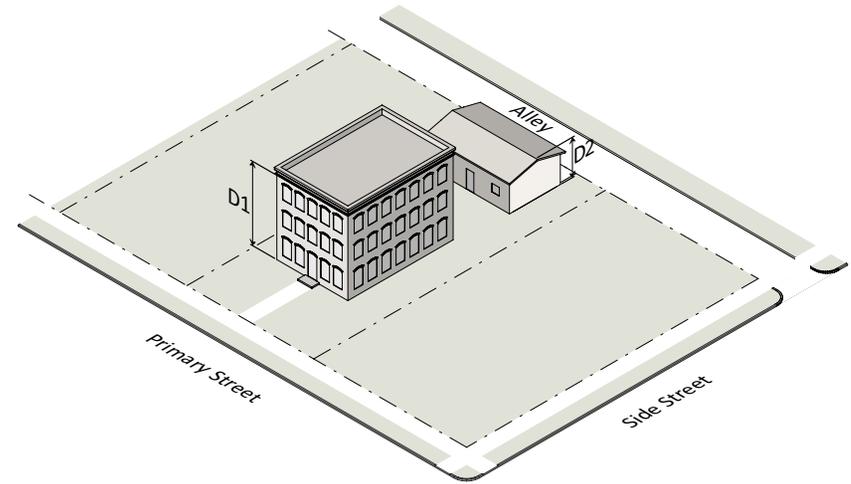
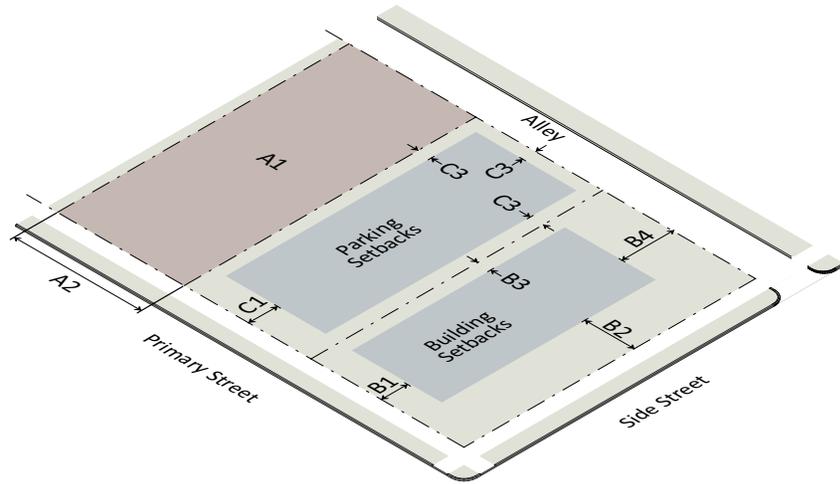
G1	Street-facing entrance required (min 1 per building)	yes
----	--	-----

##### H. Allowed Building Elements

- Porch, stoop
- Balcony

See *Sec. 1.5.11.* for specific building element requirements.

## Sec. 2.2.5. Civic Building

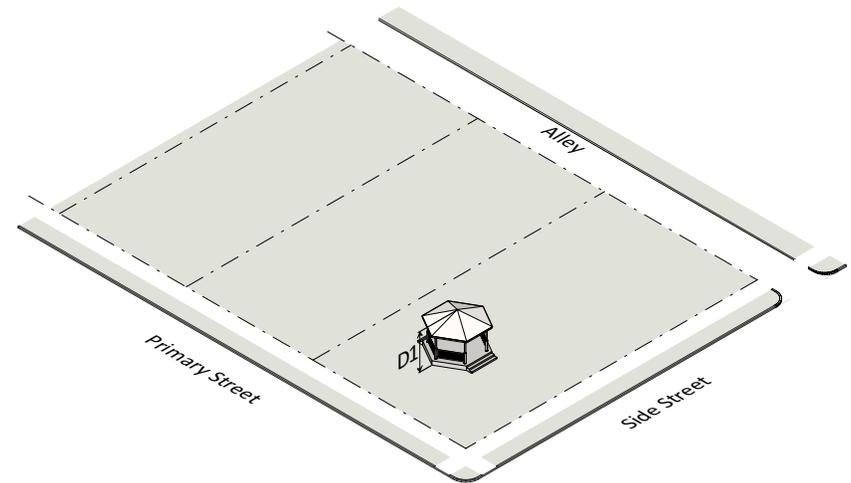
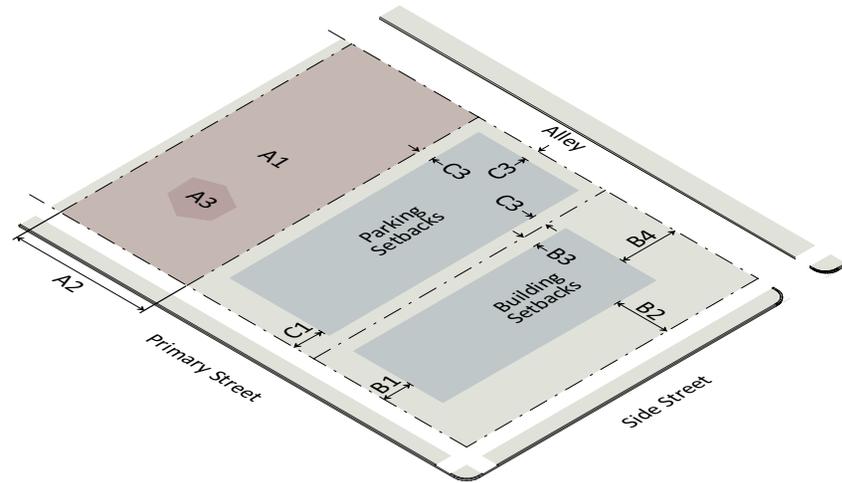


	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	40,000 sf	20,000 sf	10,000 sf	6,000 sf	4,000 sf
A2 Width (min)	100'	80'	65'	50'	45'
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	15'	10'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	30'	20'	20'
B5 Residential infill rules may apply (see Sec. 2.2.7.)	no	no	yes	yes	yes
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	20'	20'	20'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	6'	6'

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 Principal building (max)	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	45'/ 3 stories
D2 Accessory structure (max)	25'	25'	25'	25'	25'
D3 Residential infill rules may apply (see Sec. 2.2.7.)	no	no	yes	yes	yes
<b>E. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
Gallery, awning					

See Sec. 1.5.11. for specific building element requirements.

### Sec. 2.2.6. Open Lot



	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	40,000 sf	20,000 sf	10,000 sf	6,000 sf	4,000 sf
A2 Width (min)	100'	80'	65'	50'	45'
A3 Building coverage (max)	10%	15%	17%	20%	22%
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	10'	10'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	10'	10'	10'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	7'	5'

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 All building/structures (max)	40'/ 3 stories				
<b>E. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
Gallery, awning					
See Sec. 1.5.11. for specific building element requirements.					

## Sec. 2.2.7. Residential Infill Compatibility

### A. Intent

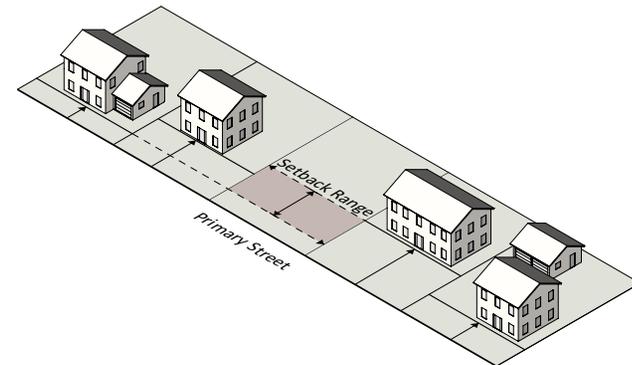
The intent of the residential infill compatibility standards is to accommodate and encourage compatible development in existing residential neighborhoods, while reinforcing the established character of the neighborhood and mitigating adverse impacts on adjacent homes.

### B. Applicability

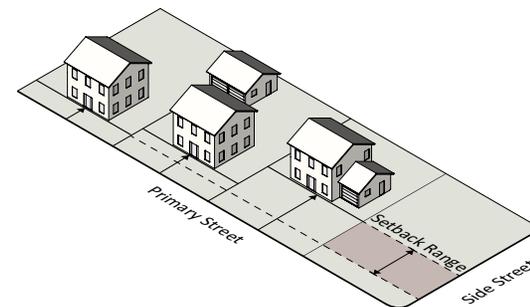
1. The standards contained within this section apply to any building in an R-4, R-6 or R-10 district where all of the following are present:
  - a. The total site area is 5 acres or less;
  - b. At least 50% of the side and rear property lines abut existing detached or attached building types; and
  - c. The lot must have been recorded for at least 20 years. This time period includes subsequent recombinations or subdivisions of the original lot configuration or recordation.
2. These infill compatibility rules do not apply in a General or Streetside Historic Overlay District or in a Neighborhood Conservation Overlay District where height is regulated.

### C. Street Setback

1. The proposed building must be located within the range of setbacks, no closer than the smallest setback in the range and no further than the largest setback in the range, except where a Neighborhood Conservation Overlay District applies an alternate setback.
2. On an interior lot, the range of setbacks is measured on the basis of the 2 closest lots in either direction along the block face.



3. On a corner lot, the range of setbacks is measured on the basis of the 3 closest lots along the primary block face.



4. Where the calculation cannot be applied to at least 4 lots on an interior lot or 3 lots on a corner lot, the building must meet the district standards.

## D. Height

### 1. Side Setback Plane

The maximum allowed wall height adjacent to the side property line is 22 feet or the average height of the 2 abutting neighboring wall planes, whichever is greater. The wall height may be increased 1 foot for each foot of horizontal distance the wall is moved from the side setback line, not to exceed the maximum height allowed within the district

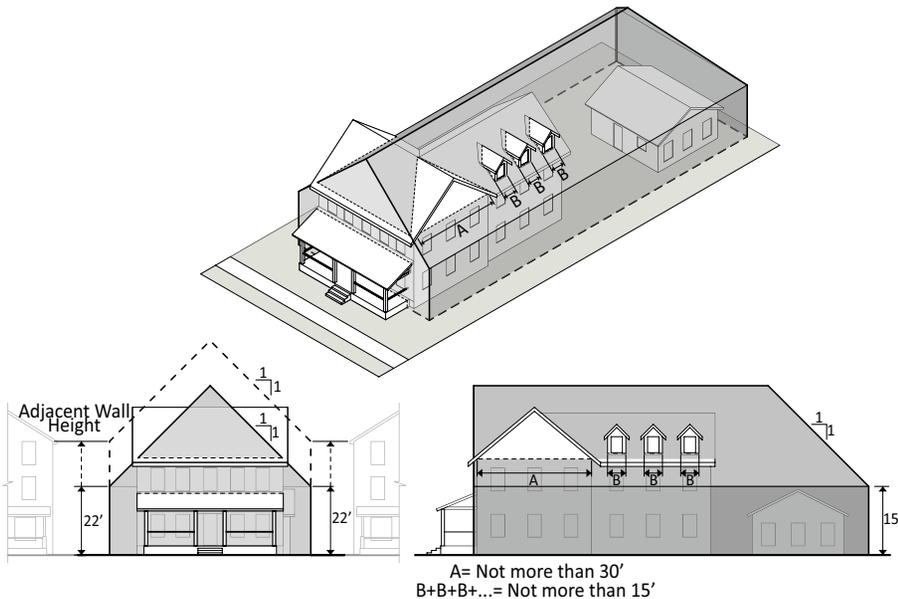
### 2. Exceptions to Setback Planes

#### a. Side-Gabled Roof

A side-gabled roof structure may extend above the side setback plane on each side of the building, for a total length of not more than 30 feet (A) on each side, measured from the front wall plane.

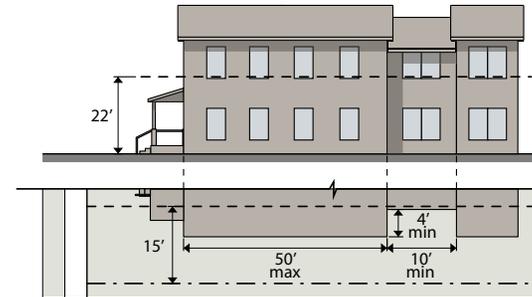
#### b. Dormers

Dormers may also extend above the side setback plane on each side of the building for a total length of not more than 15 feet (B) on each side, measured along the intersection with the setback plane.



## E. Side Wall Length

Articulation is required for side walls on additions or new construction that are 22 feet or taller and located within 15 feet of the side lot line. No wall may extend for more than 50 feet without a projection or recession of at least 4 feet in depth and 10 feet in length.



## F. Administrative Alternate Findings

The Planning and Development Officer may in accordance with *Sec. 10.2.17* approve an alternate infill standard, subject to all of the following findings:

1. The approved alternate meets the intent of the infill regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans; and
3. The approved alternate better matches the established character of the block face.

## Article 2.3. Compact Development

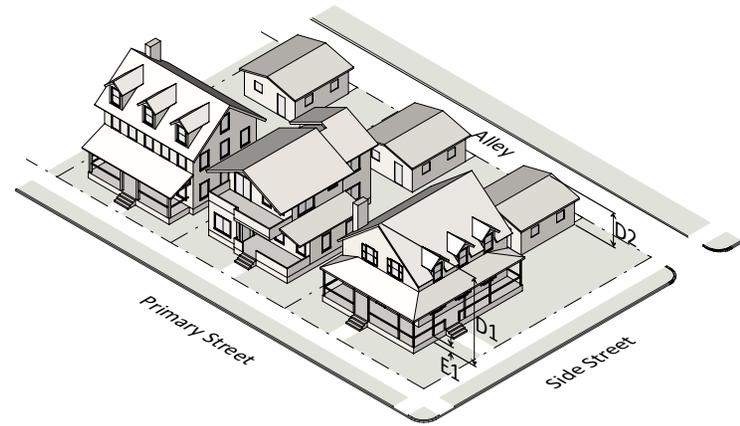
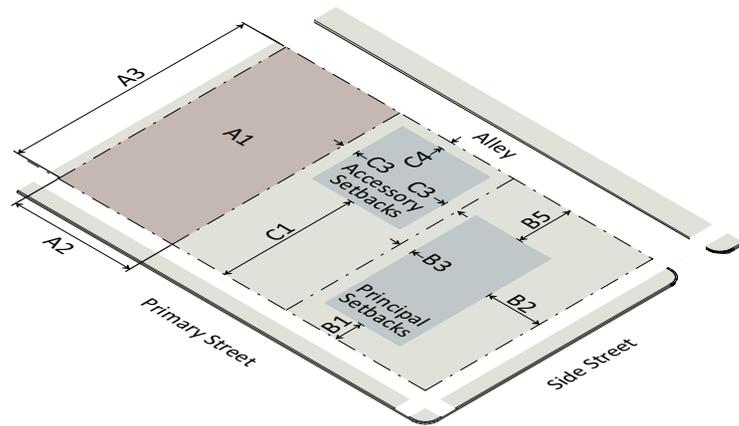
### Sec. 2.3.1. General Requirements



	R-1	R-2	R-4	R-6	R-10
<b>A. Site</b>					
A1 Density (max)	1 u/a	2 u/a	4 u/a	6 u/a	10 u/a
A2 Gross site area (min)	10 acres	10 acres	8 acres	Greater than 5 acres	Greater than 5 acres
<b>B. Open Space</b>					
B1 Open space required (min)	20%	20%	20%	20%	20%
B2 Width of open space (min)	50'	50'	50'	50'	50'

	R-1	R-2	R-4	R-6	R-10
<b>C. Transitional Protective Yard</b>					
C1 Site boundary (min)	Type B1 or B2 Transitional Protective Yard (see Sec. 7.2.4.A.) or perimeter lots must meet dimensional standards of Article 2.2. Conventional Development Option of the district where the property is located.				
<b>D. Residential Unit Types (max)</b>					
Detached house	100%	100%	100%	100%	100%
Attached house	n/a	n/a	n/a	100%	100%
Townhouse	n/a	n/a	n/a	n/a	100%
Apartment	n/a	n/a	n/a	n/a	100%

### Sec. 2.3.2. Detached House

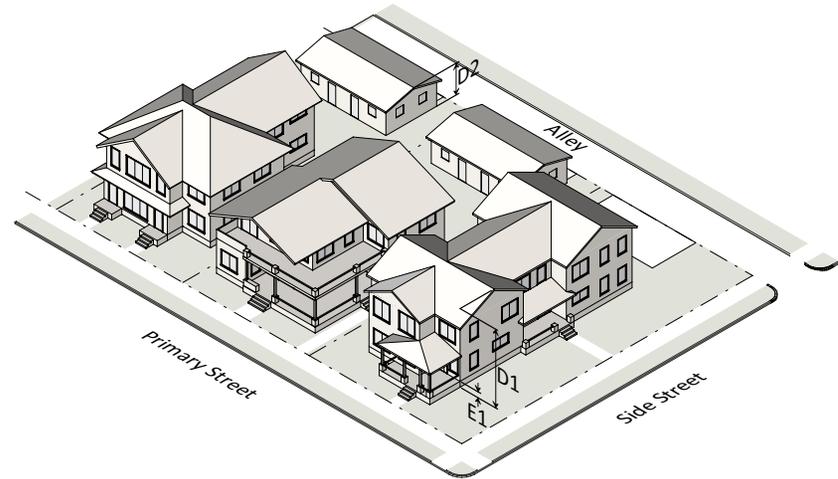
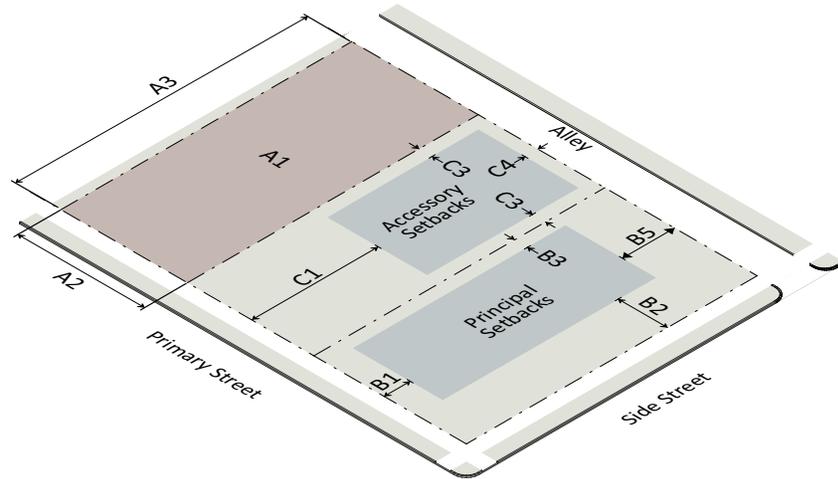


	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	30,000 sf	15,000 sf	7,500 sf	5,000 sf	4,000 sf
A2 Width - interior lot (min)	100'	80'	65'	50'	45'
A2 Width - corner lot (min)	100'	80'	80'	65'	60'
A3 Depth (min)	100'	100'	100'	80'	60'
A4 Density (max)	1 u/a	2 u/a	4 u/a	6 u/a	10 u/a
<b>B. Principal Building Setbacks</b>					
B1 From primary street (min)	20'	20'	10'	10'	10'
B2 From side street (min)	15'	15'	15'	10'	10'
B3 From side lot line (min)	10'	10'	10'	5'	5'
B4 Sum of side setbacks (min)	15'	15'	15'	15'	10'
B5 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Accessory Structure Setbacks</b>					
C1 From primary street (min)	50'	50'	50'	50'	50'
C2 From side street (min)	20'	20'	20'	20'	20'
C3 From side lot line (min)	10'	5'	5'	5'	5'
C4 From rear lot line (min)	30'	30'	30'	20'	20'
C4 From alley, garage only (min)	n/a	n/a	4' or 20' min	4' or 20' min	4' or 20' min

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 Principal building (max)	40'/ 3 stories				
D2 Accessory structure (max)	25'	25'	25'	25'	25'
<b>E. Ground Floor Elevation</b>					
E1 20' or less from front property line (min)	2'	2'	2'	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a	n/a	n/a	n/a
<b>F. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
See Sec. Sec. 1.5.11. for specific building element requirements.					

*Residential infill regulations for additional building setback and reduced height may apply (see Sec. 2.2.7.)*

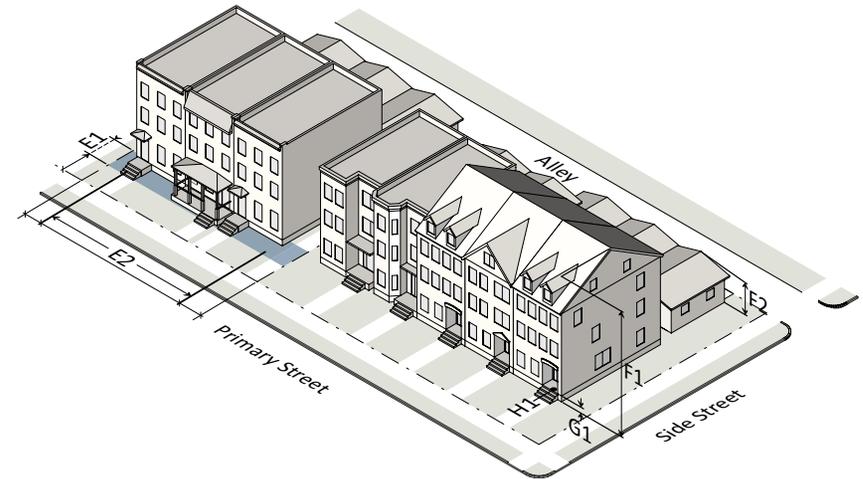
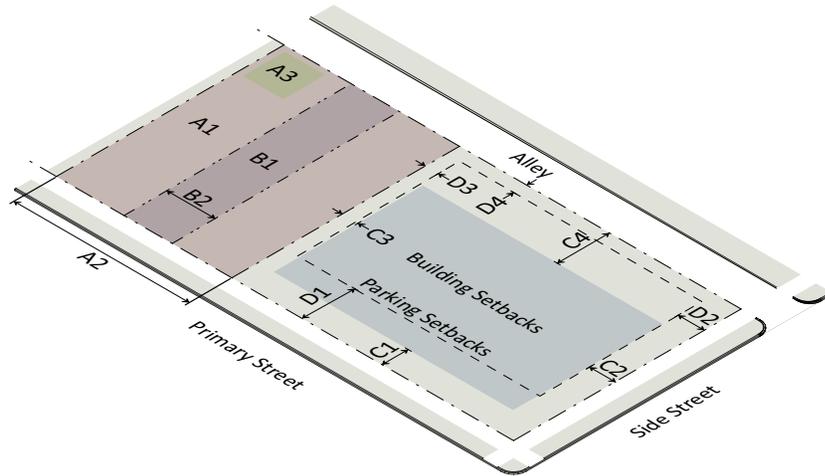
### Sec. 2.3.3. Attached House



	R-6	R-10
<b>A. Lot Dimensions</b>		
A1 Area (min)	7,500 sf	6,000 sf
A2 Width - interior lot (min)	60'	50'
A2 Width - corner lot (min)	80'	65'
A3 Depth (min)	80'	60'
A4 Density (max)	6 u/a	10 u/a
<b>B. Principal Building Setbacks</b>		
B1 From primary street (min)	10'	10'
B2 From side street (min)	10'	10'
B3 From side lot line (min)	5'	5'
B4 Sum of side setbacks (min)	15'	10'
B5 From rear lot line (min)	20'	20'
<b>C. Accessory Structure Setbacks</b>		
C1 From primary street (min)	50'	50'
C2 From side street (min)	20'	20'
C3 From side lot line (min)	5'	5'
C4 From rear lot line (min)	20'	20'
C4 From alley, garage only (min)	4' or 20' min	4' or 20' min

	R-6	R-10
<b>D. Height</b>		
D1 Principal building (max)	40'/3 stories	40'/3 stories
D2 Accessory structure (max)	25'	25'
<b>E. Ground Floor Elevation</b>		
E1 20' or less from front property line (min)	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a
<b>F. Allowed Building Elements</b>		
Porch, stoop		
Balcony		
See Sec. 1.5.11. for specific building element requirements.		
<i>Residential infill regulations for additional building setback and reduced height may apply (see Sec. 2.2.7.)</i>		

## Sec. 2.3.4. Townhouse

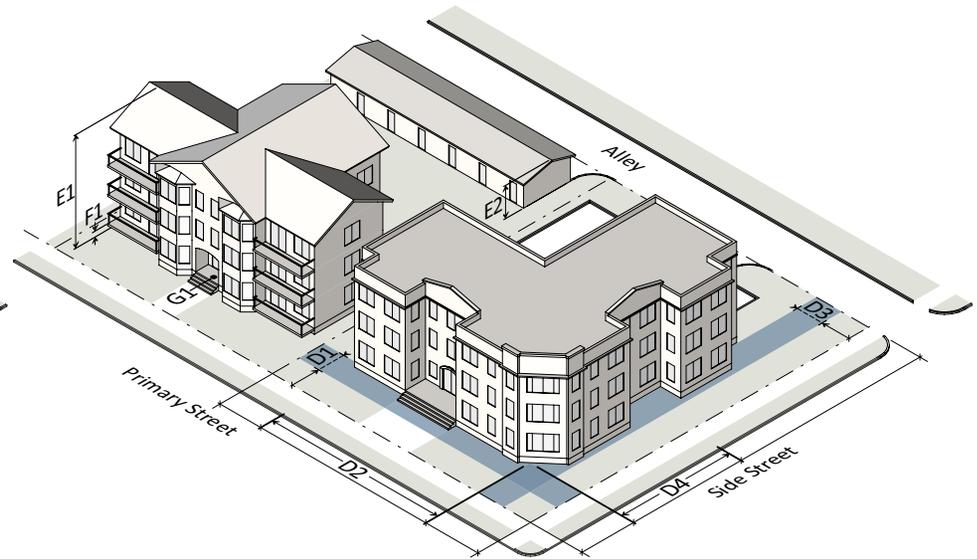
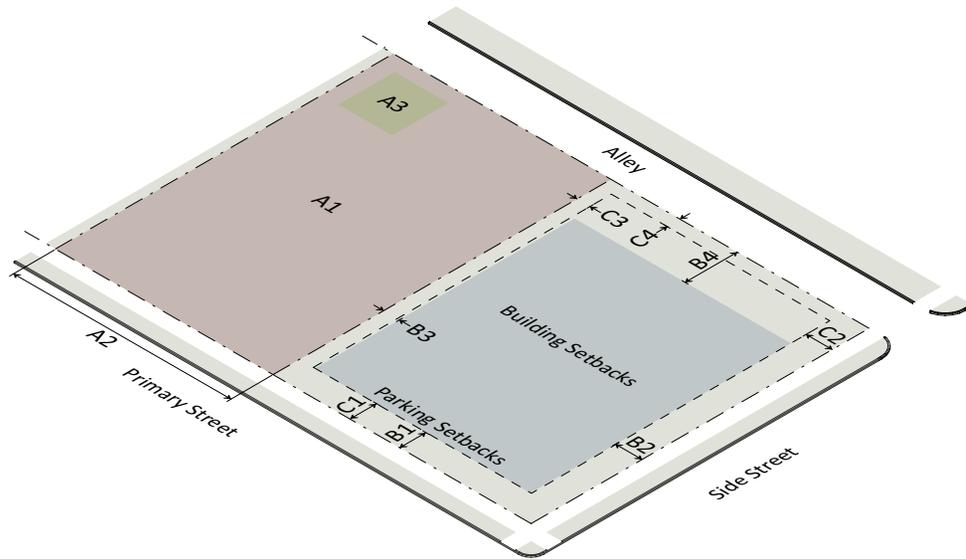


		<b>R-10</b>
<b>A. Site Dimensions</b>		
A1	Net site area (min)	3,300 sf
A2	Width (min)	44'
A3	Outdoor amenity area	5%
A4	Density (max)	10 u/a
<b>B. Lot Dimensions</b>		
B1	Area (min)	n/a
B2	Width (min)	16'
<b>C. Building/Structure Setbacks</b>		
C1	From primary street (min)	10'
C2	From side street (min)	10'
C3	From side lot line (min)	0' or 6'
C4	From rear lot line (min)	20'
C4	From alley, garage only (min)	4' or 20' min
<b>D. Parking Setbacks</b>		
D1	From primary street (min)	20'
D2	From side street (min)	10'
D3	From side line (min)	0' or 3'
D4	From rear lot line (min)	3'
D4	From alley (min)	4'

		<b>R-10</b>
<b>E. Build-to (Site)</b>		
E1	Primary street build-to (min/max)	10'/30'
E2	Building width in primary build-to (min)	70%
<b>F. Height</b>		
F1	Principal building (max)	45'/3 stories
F2	Accessory structure (max)	25'
<b>G. Ground Floor Elevation</b>		
G1	Within build-to (min)	2'
G1	Outside of build-to (min)	n/a
<b>H. Pedestrian Access</b>		
H1	Street-facing entrance required for units fronting the street	yes
<b>I. Allowed Building Elements</b>		
Porch, stoop		
Balcony		
See Sec. Sec. 1.5.11. for specific building element requirements.		

*Residential infill regulations for additional building setback and reduced height may apply (see Sec. 2.2.7.)*

### Sec. 2.3.5. Apartment



#### R-10

##### A. Lot Dimensions

A1	Area (min)	15,000 sf
A2	Width (min)	100'
A3	Outdoor amenity area	5%
A4	Density (max)	10 u/a

##### B. Building/Structure Setbacks

B1	From primary street (min)	10'
B2	From side street (min)	10'
B3	From side lot line (min)	0' or 6'
B4	From rear lot line (min)	20'
B4	From alley	4' or 20' min

##### C. Parking Setbacks

C1	From primary street (min)	10'
C2	From side street (min)	10'
C3	From side/rear lot line (min)	0' or 3'
C4	From rear lot line (min)	3'
C4	From alley (min)	4'

#### R-10

##### D. Build-to

D1	Primary street build-to (min/max)	10'/30'
D2	Building width in primary build-to (min)	70%
D3	Side street build-to (min/max)	10'/30'
D4	Building width in side build-to (min)	35%

##### E. Height

E1	Principal building (max)	45'/3 stories
E2	Accessory structure (max)	25'

##### F. Ground Floor Elevation

F1	Within build-to (min)	2'
F2	Outside of build-to (min)	n/a

##### G. Pedestrian Access

G1	Street-facing entrance required (min 1 per building)	yes
----	--	-----

##### H. Allowed Building Elements

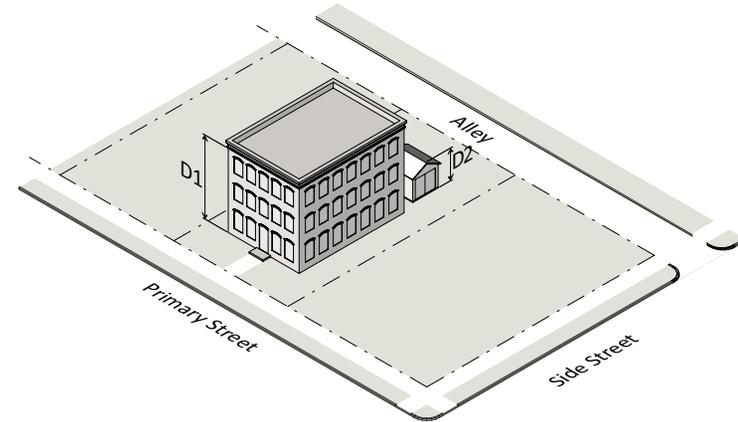
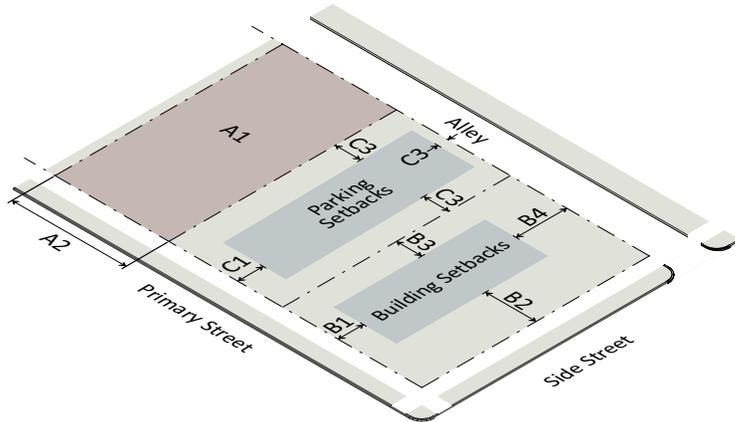
Porch, stoop

Balcony

See Sec. 1.5.11. for specific building element requirements.

*Residential infill regulations for additional building setback and reduced height may apply (see Sec. 2.2.7.)*

### Sec. 2.3.6. Civic Building

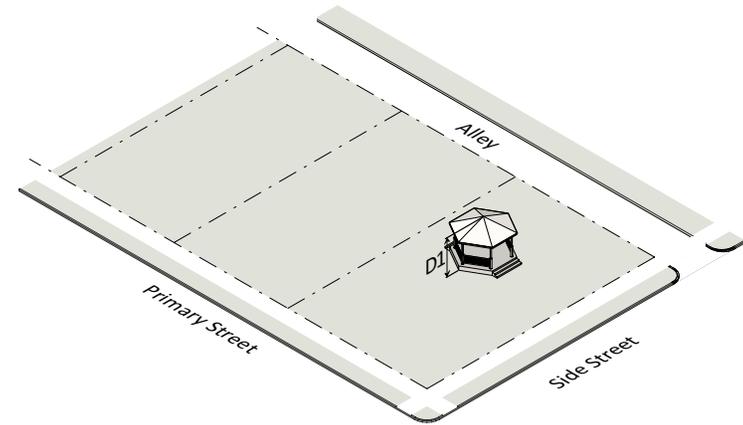
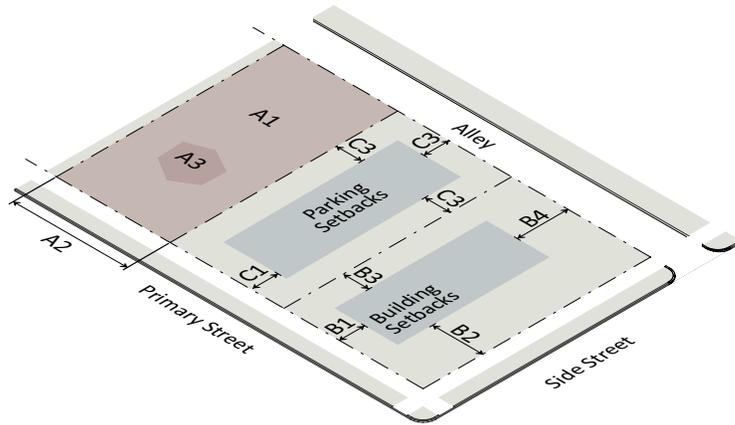


	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	30,000 sf	15,000 sf	7,500 sf	5,000 sf	4,000 sf
A2 Width (min)	100'	80'	65'	50'	45'
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	15'	10'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	20'	20'	20'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	6'	6'

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 Principal building (max)	40'/ 3 stories				
D2 Accessory structure (max)	25'	25'	25'	25'	25'
<b>E. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
Gallery, awning					
See Sec. 1.5.11. for specific building element requirements.					

*Residential infill regulations for additional building setback and reduced height may apply (see Sec. 2.2.7.)*

### Sec. 2.3.7. Open Lot



	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	30,000 sf	15,000 sf	7,500 sf	5,000 sf	4,000 sf
A2 Width (min)	100'	80'	65'	50'	45'
A3 Building coverage (max)	10%	15%	17%	20%	22%
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	10'	10'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	30'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	10'	10'	10'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	7'	5'

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 All building/structures (max)	40'/ 3 stories				
<b>E. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
Gallery, awning					
See Sec. 1.5.11. for specific building element requirements.					

*Residential infill regulations for additional building setback and reduced height may apply (see Sec. 2.2.7.)*

# Article 2.4. Conservation Development Option

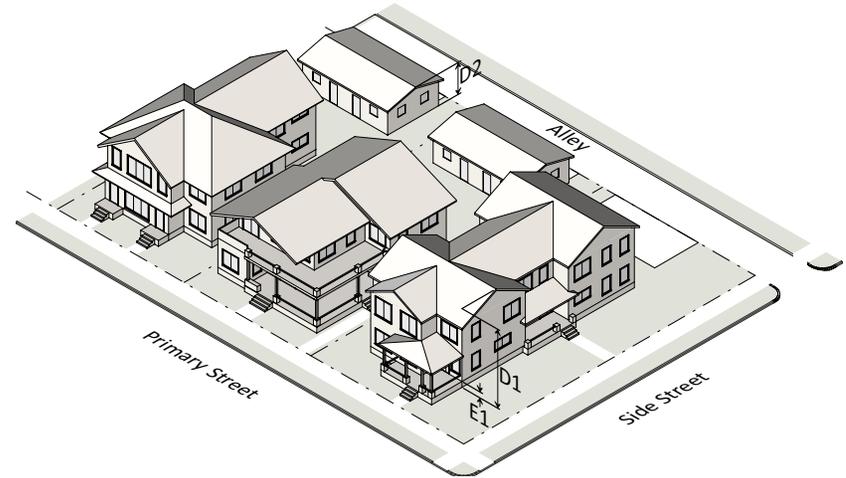
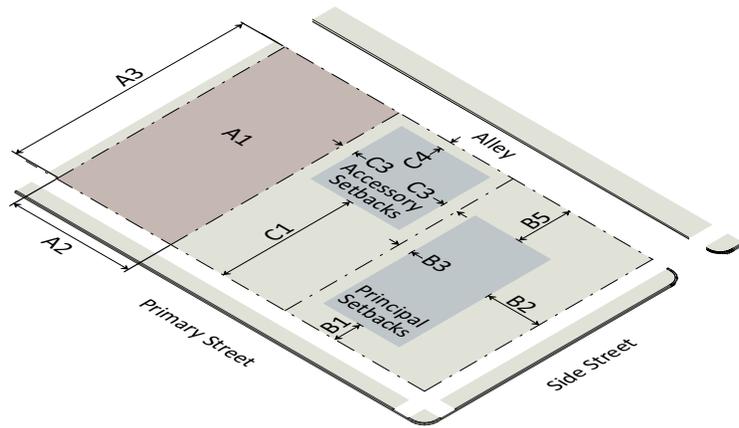
## Sec. 2.4.1. General Requirements



	R-1	R-2	R-4	R-6	R-10
<b>A. Site</b>					
A1 Density (max)	2 u/a	4 u/a	6 u/a	10 u/a	15 u/a
A2 Gross site area (min)	20 acres	15 acres	12 acres	10 acres	5 acres
<b>B. Open Space</b>					
B1 Open space required (min)	40%	40%	40%	40%	40%
B2 % of lots abutting open spaces (min)	60%	50%	40%	40%	30%
B3 Contiguous area (min)	60%	60%	60%	60%	60%
B4 Width of open space (min)	50'	50'	50'	50'	50'

	R-1	R-2	R-4	R-6	R-10
<b>C. Transitional Protective Yard</b>					
C1 Site boundary (min)	Type B1 or B2 Transitional Protective Yard (see Sec. 7.2.4.A.) or perimeter lots must meet dimensional standards of Article 2.2. Conventional Development Option of the district where the property is located.				
<b>D. Residential Unit Types (max)</b>					
Detached house	100%	100%	100%	100%	100%
Attached house	n/a	35%	40%	45%	50%
Townhouse	n/a	n/a	30%	35%	40%
Apartment	n/a	n/a	n/a	30%	35%

## Sec. 2.4.2. Detached House

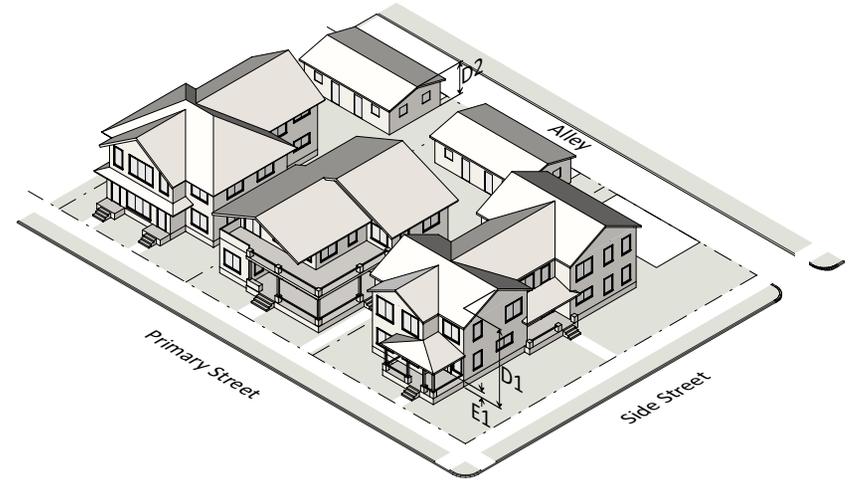
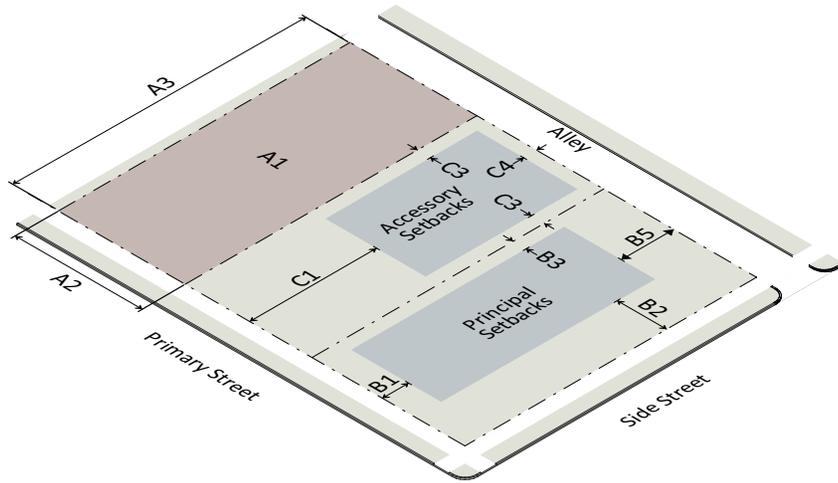


	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	20,000 sf	10,000 sf	6,000 sf	4,000 sf	3,000 sf
A2 Width - interior lot (min)	80'	65'	50'	45'	30'
A2 Width - corner lot (min)	80'	80'	65'	60'	45'
A3 Depth (min)	100'	100'	80'	60'	60'
<b>B. Principal Building Setbacks</b>					
B1 From primary street (min)	20'	20'	10'	10'	10'
B2 From side street (min)	20'	20'	10'	10'	10'
B3 From side lot line (min)	10'	10'	5'	5'	5'
B4 Sum of side setbacks (min)	20'	20'	15'	10'	10'
B5 From rear lot line (min)	30'	30'	20'	20'	15'
<b>C. Accessory Structure Setbacks</b>					
C1 From primary street (min)	50'	50'	50'	50'	50'
C2 From side street (min)	20'	20'	20'	20'	20'
C3 From side lot line (min)	5'	5'	5'	5'	5'
C4 From rear lot line (min)	5'	5'	5'	5'	5'
C4 From alley, garage only (min)	4' or 20' min				

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 Principal building (max)	40'/ 3 stories				
D2 Accessory structure (max)	25'	25'	25'	25'	25'
<b>E. Ground Floor Elevation</b>					
E1 20' or less from front property line (min)	2'	2'	2'	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a	n/a	n/a	n/a
<b>F. Allowed Building Elements</b>					
Porch, stoop					
Balcony					

See Sec. 1.5.11. for specific building element requirements.

### Sec. 2.4.3. Attached House

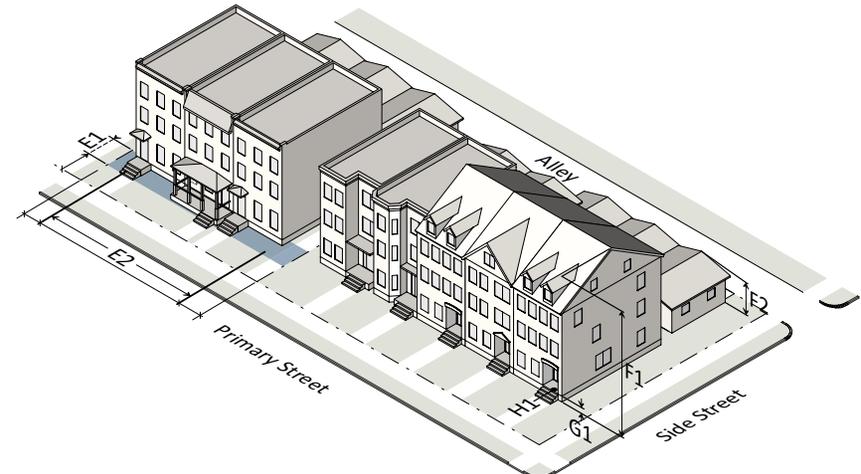
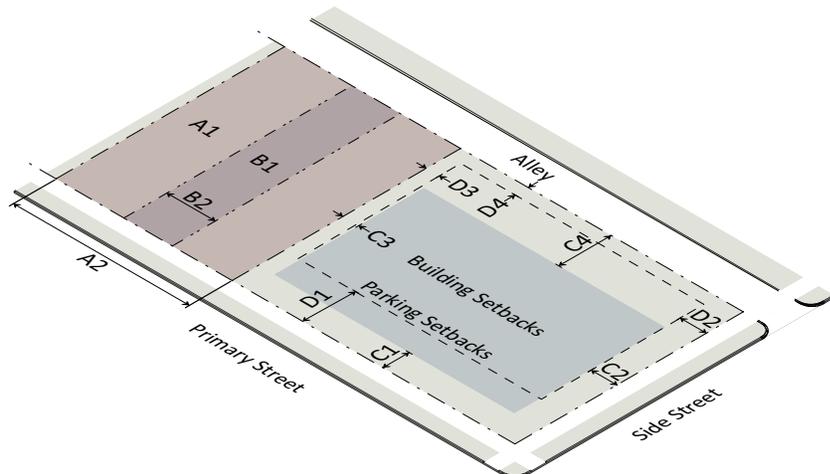


	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>				
A1 Area (min)	15,000 sf	9,000 sf	6,000 sf	4,500 sf
A2 Width - interior lot (min)	65'	60'	50'	40'
A2 Width - corner lot (min)	80'	80'	65'	55'
A3 Depth (min)	80'	80'	60'	60'
<b>B. Principal Building Setbacks</b>				
B1 From primary street (min)	20'	10'	10'	10'
B2 From side street (min)	20'	20'	10'	10'
B3 From side lot line (min)	10'	5'	5'	5'
B4 Sum of side setbacks (min)	20'	15'	10'	10'
B5 From rear lot line (min)	30'	20'	20'	15'
<b>C. Accessory Structure Setbacks</b>				
C1 From primary street (min)	50'	50'	50'	50'
C2 From side street (min)	20'	20'	20'	20'
C3 From side lot line (min)	5'	5'	5'	5'
C4 From rear lot line (min)	5'	5'	5'	5'
C4 From alley, garage only (min)	4' or 20' min	4' or 20' min	4' or 20' min	4' or 20' min

	R-2	R-4	R-6	R-10
<b>D. Height</b>				
D1 Principal building (max)	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories
D2 Accessory structure (max)	25'	25'	25'	25'
<b>E. Ground Floor Elevation</b>				
E1 20' or less from front property line (min)	2'	2'	2'	2'
E1 More than 20' from front property line (min)	n/a	n/a	n/a	n/a
<b>F. Allowed Building Elements</b>				
Porch, stoop				
Balcony				

See Sec. 1.5.11. for specific building element requirements.

## Sec. 2.4.4. Townhouse

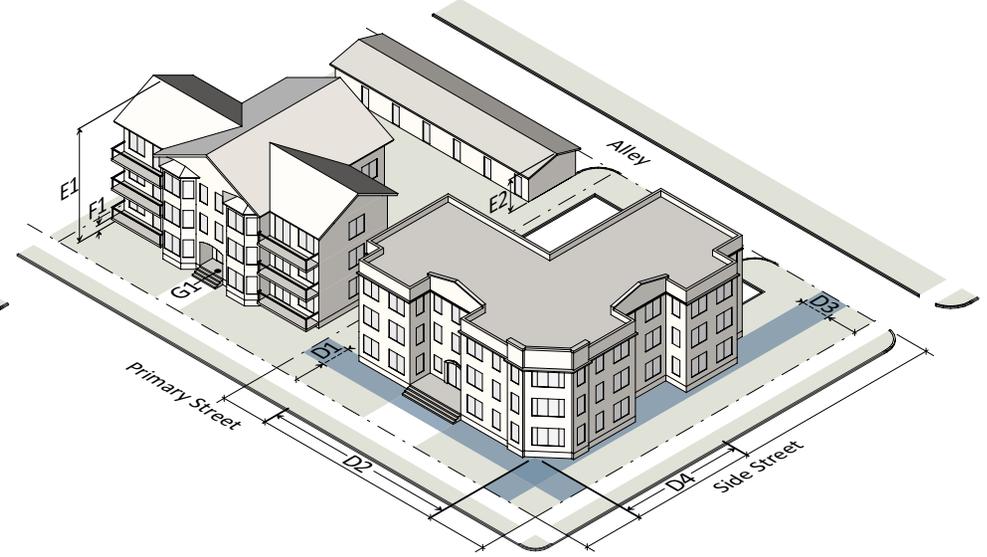
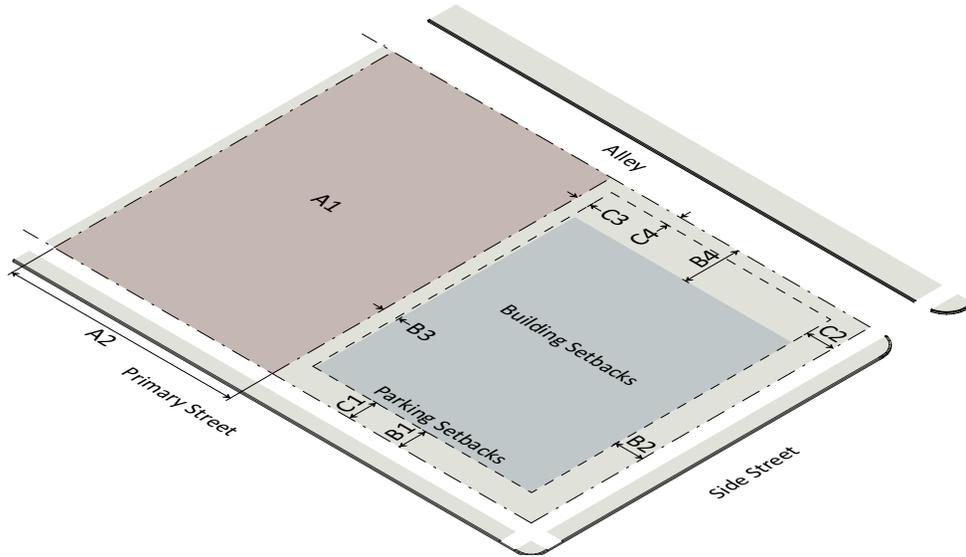


	R-4	R-6	R-10
<b>A. Site Dimensions</b>			
A1 Net site area (min)	3,900 sf	3,300 sf	3,000 sf
A2 Width (min)	52'	44'	40'
<b>B. Lot Dimensions</b>			
B1 Area (min)	1,500 sf	1,200 sf	1,050 sf
B2 Width (min)	20'	16'	14'
<b>C. Building/Structure Setbacks</b>			
C1 From primary street (min)	10'	10'	10'
C2 From side street (min)	10'	10'	10'
C3 From side lot line (min)	0' or 6'	0' or 6'	0' or 6'
C4 From rear lot line (min)	20'	20'	20'
C4 From alley, garage only (min)	4' or 20' min	4' or 20' min	4' or 20' min
<b>D. Parking Setbacks</b>			
D1 From primary street (min)	20'	20'	20'
D2 From side street (min)	10'	10'	10'
D3 From side line (min)	0' or 3'	0' or 3'	0' or 3'
D4 From rear lot line (min)	3'	3'	3'
D4 From alley (min)	4'	4'	4'

	R-4	R-6	R-10
<b>E. Build-to (Site)</b>			
E1 Primary street build-to (min/max)	10'/30'	10'/30'	10'/30'
E2 Building width in primary build-to (min)	70%	70%	70%
<b>F. Height</b>			
F1 Principal building (max)	45'/ 3 stories	45'/ 3 stories	45'/ 3 stories
F2 Accessory structure (max)	25'	25'	25'
<b>G. Ground Floor Elevation</b>			
G1 Within build-to (min)	2'	2'	2'
G1 Outside of build-to (min)	0'	0'	0'
<b>H. Pedestrian Access</b>			
H1 Street-facing entrance required for units fronting the street	yes	yes	yes
<b>I. Allowed Building Elements</b>			
Porch, stoop			
Balcony			

See Sec. 1.5.11. for specific building element requirements.

**Sec. 2.4.5. Apartment**

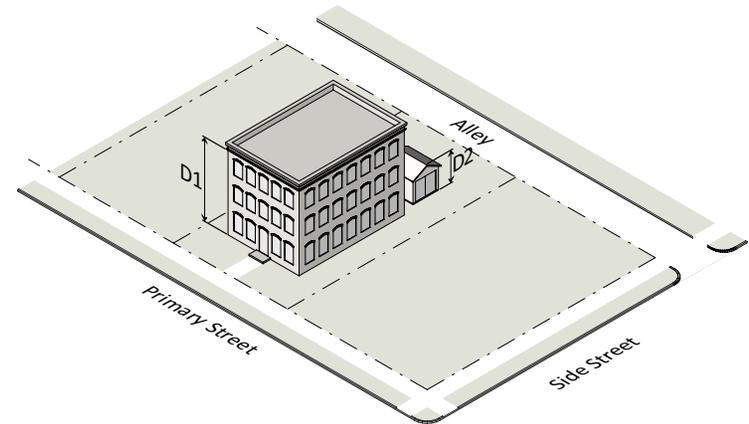
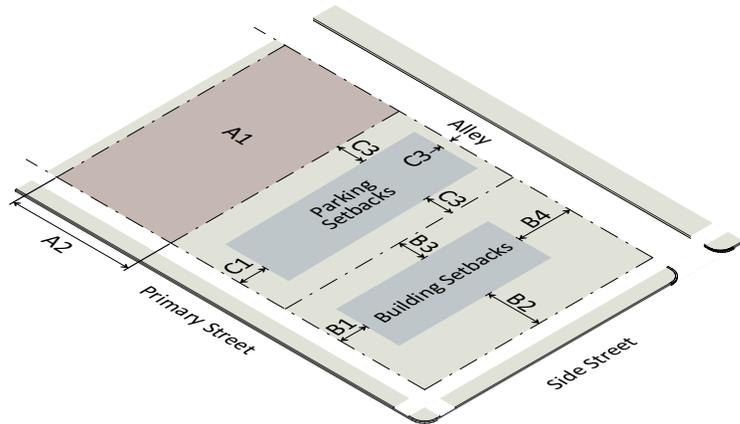


	R-6	R-10
<b>A. Lot Dimensions</b>		
A1 Area (min)	15,000 sf	15,000 sf
A2 Width (min)	100'	100'
<b>B. Building/Structure Setbacks</b>		
B1 From primary street (min)	10'	10'
B2 From side street (min)	10'	10'
B3 From side lot line (min)	0' or 6'	0' or 6'
B4 From rear lot line (min)	20'	20'
B4 From alley	4' or 20' min	4' or 20' min
<b>C. Parking Setbacks</b>		
C1 From primary street (min)	10'	10'
C2 From side street (min)	10'	10'
C3 From side/rear lot line (min)	0' or 3'	0' or 3'
C4 From rear lot line (min)	3'	3'
C4 From alley (min)	4'	4'

	R-6	R-10
<b>D. Build-to</b>		
D1 Primary street build-to (min/max)	10'/30'	10'/30'
D2 Building width in primary build-to (min)	70%	70%
D3 Side street build-to (min/max)	10'/30'	10'/30'
D4 Building width in side build-to (min)	35%	35%
<b>E. Height</b>		
E1 Principal building (max)	45'/3 stories	45'/3 stories
E2 Accessory structure (max)	25'	25'
<b>F. Ground Floor Elevation</b>		
F1 Within build-to (min)	2'	2'
F2 Outside of build-to (min)	0'	0'
<b>G. Pedestrian Access</b>		
G1 Street-facing entrance required (min 1 per building)	yes	yes
<b>H. Allowed Building Elements</b>		
Porch, stoop		
Balcony		

See Sec. 1.5.11. for specific building element requirements.

## Sec. 2.4.6. Civic Building

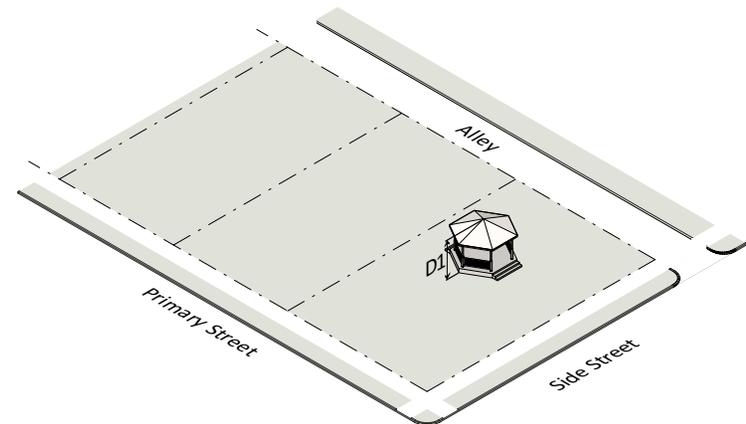
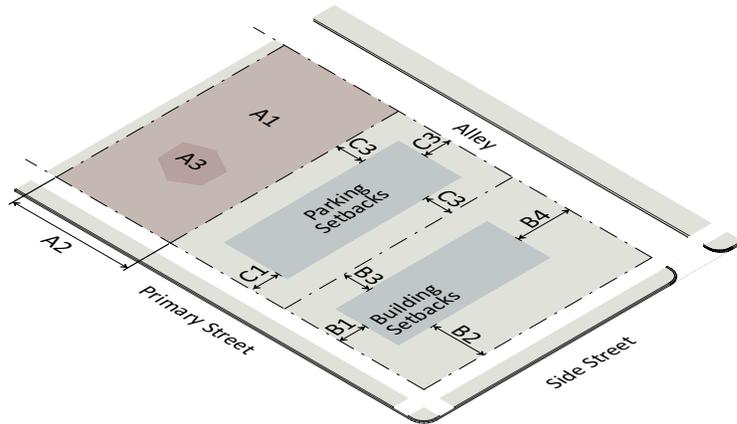


	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	20,000 sf	10,000 sf	6,000 sf	4,000 sf	4,000 sf
A2 Width (min)	80'	65'	50'	45'	45'
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	10'	10'	10'
B2 From side street (min)	20'	20'	10'	10'	10'
B3 From side lot line (min)	10'	20'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	20'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	20'	20'	10'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	6'	6'	6'

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 Principal building (max)	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	45'/ 3 stories	45'/ 3 stories
D2 Accessory structure (max)	25'	25'	25'	25'	25'
<b>E. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
Gallery, awning					

See Sec. 1.5.11. for specific building element requirements.

### Sec. 2.4.7. Open Lot



	R-1	R-2	R-4	R-6	R-10
<b>A. Lot Dimensions</b>					
A1 Area (min)	20,000 sf	10,000 sf	6,000 sf	4,000 sf	4,000 sf
A2 Width (min)	80'	65'	50'	45'	45'
A3 Building coverage (max)	15%	17%	20%	22%	22%
<b>B. Building/Structure Setbacks</b>					
B1 From primary street (min)	20'	20'	10'	10'	10'
B2 From side street (min)	20'	20'	10'	10'	10'
B3 From side lot line (min)	10'	20'	10'	10'	10'
B4 From rear lot line (min)	30'	30'	20'	20'	20'
<b>C. Parking Setbacks</b>					
C1 From primary street (min)	20'	20'	10'	10'	10'
C2 From side street (min)	10'	10'	10'	10'	10'
C3 From side/rear lot line (min)	10'	10'	10'	10'	10'

	R-1	R-2	R-4	R-6	R-10
<b>D. Height</b>					
D1 All building/structures (max)	40'/ 3 stories				
<b>E. Allowed Building Elements</b>					
Porch, stoop					
Balcony					
Gallery, awning					
See Sec. 1.5.11. for specific building element requirements.					

## Article 2.5. Common Open Space Requirements

### Sec. 2.5.1. Amount of Open Space

Applicants that choose to use the conservation standards must set aside at least 40% of the total project area as common open space. Applicants that choose to use the compact standards must set aside at least 20% of the total project area as common open space. The amount of required common open space is calculated as a percentage of the net site area.

### Sec. 2.5.2. Open Space Allocation

In allocating land for required common open space, the following hierarchy of primary and secondary open space applies.

#### A. Primary Open Space

The following are considered primary open space areas and must be the first areas reserved as required open space:

1. Floodway areas;
2. Natural resource buffers required along primary and secondary watercourses;
3. Slopes above 25% of at least 5,000 square feet contiguous area;
4. Jurisdictional wetlands under federal law (Clean Water Act, Section 404) that meet the definition applied by the Army Corps of Engineers; and
5. Transitional protective yards.

#### B. Secondary Open Space

The following are considered secondary open space areas and must be included as required open space once the primary open space areas are exhausted:

1. Flood fringe areas.

#### C. Tertiary Open Space

The following are considered tertiary open space areas and must be included as required open space once the primary and secondary open space areas are exhausted:

1. Historic, archeological and cultural sites, cemeteries and burial grounds;
2. Significant natural features and scenic viewsheds such as ridge lines, field borders, meadows, fields, river views, natural woodlands that can be seen from roadways and serve to block the view of the project in whole or in part;

3. Habitat for federally-listed endangered or threatened species;
4. Individual existing healthy trees greater than 10 inches DBH and their critical root zones;
5. Areas that connect to neighboring open space, trails or greenways;
6. Soils with severe limitations due to drainage problems; and
7. Tree conservation areas.

### Sec. 2.5.3. Configuration of Open Space

- A. The minimum width for any required open space is 50 feet. Exceptions may be granted for items such as trail easements and linear parks and 32-foot wide tree conservation areas.
- B. At least 60% of the required open space must be contiguous. For the purposes of this section, contiguous includes any open space bisected by a Local Street or Mixed Use Street, provided that:
  1. A pedestrian crosswalk provides access to the open space on both sides of the street; and
  2. The right-of-way area is not included in the calculation of minimum open space required.
- C. Where feasible, the open space should adjoin any neighboring areas of open space, other protected areas and non-protected natural areas.
- D. The required open space must be directly accessible to the largest practicable number of dwelling units within the development. Non-adjointing lots must be provided with safe, convenient access to the open space.
- E. No lot can be farther than a ¼-mile radius from the open space. This radius is measured in a straight line from the lot line, without regard for street, sidewalk or trail connections, to the nearest point of the open space.
- F. Access to the open space must be provided either by an abutting street or easement not less than 20 feet in width.

### Sec. 2.5.4. Allowed Uses of Open Space

To the extent not otherwise prohibited, required open space may be used for the following:

- A. Conservation areas for natural, archeological or historical resources;
- B. Meadows, woodlands, wetlands, wildlife corridors, game preserves or similar conservation-oriented areas;

- C. Pedestrian or multipurpose trails;
- D. Passive recreation areas;
- E. Active recreation areas, provided that impervious area is limited to no more than 25% of the total open space (active recreation areas in excess of this impervious area limit must be located outside of the required open space);
- F. Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required open space and further provided that impervious area is limited to no more than 10% of the total open space;
- G. Water bodies, such as lakes and ponds and floodways provided the total surface area does not exceed 50% of the required open space;
- H. Restricted agriculture, community garden;
- I. Floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture;
- J. Stormwater control measures; and
- K. Easements for drainage, access and underground utility lines.

### Sec. 2.5.5. Stormwater Control Measures

No more than 25% of the required common space shall be devoted singularly or collectively to detention ponds, sand filters and retention ponds, provided, this limitation shall have no application to any retention pond that meets all of the following:

- A. The retention pond or closely connected series of ponds is one-half acre water surface area at normal pool in size or greater;
- B. The retention pond is surrounded by open space;
- C. The retention pond is accessible to all homeowners; and
- D. The retention pond is an amenity complying with Sec. 7.2.6.

### Sec. 2.5.6. Prohibited Uses of Open Space

Required open space cannot be used for the following:

- A. Individual wastewater disposal systems;
- B. Overhead electric transmission lines or high voltage electric transmission lines; and
- C. Streets (except for street crossings as expressly provided) and impervious parking areas.

## Sec. 2.5.7. Ownership and Management of Open Space

### A. Ownership

Required open space must be owned and maintained by one of the following entities:

#### 1. Land Conservancy or Land Trust

A bona fide land conservancy or land trust with the legal authority may own the open space. The responsibility for maintaining the open space and any facilities may be borne by a land conservancy or land trust.

#### 2. Homeowners' Association

A homeowners' association representing residents of the development may own the open space. The homeowners' association must have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities is borne by the homeowners' association.

### B. Conveyance

The conveyance of common open space shall be in accordance with the following:

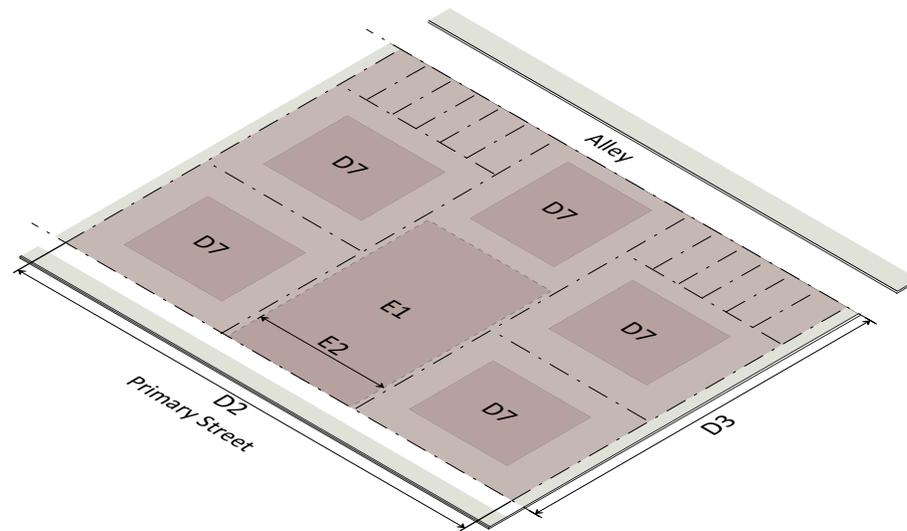
- 1. Open space shall be conveyed to the land conservancy or homeowners' association in fee simple without any encumbrances except drainage, greenway and utility easements. Title to the real property shall be conveyed no later than the time of the conveyance of the first lot within the applicable phase of the development.
- 2. Open space shall be preserved for the perpetual benefit of the residents within the development and it shall be restricted against private or public ownership for any other purpose except acquisition by condemnation or in lieu of condemnation and the granting of utility, drainage and greenway easements.

### C. Dissolution

If the homeowner's association is dissolved, the open space may be offered to another entity who shall be responsible for the maintenance and upkeep of the open space. If no other offer is accepted, the open space shall be offered to the City and if accepted, deeded to the City.

## Article 2.6. Additional Housing Patterns

### Sec. 2.6.1. Cottage Court



#### A. Description

A cottage court is a group of small houses centered around a common open space or courtyard. The central court enhances the character of the area through the provision of consolidated open space.

#### B. Districts Allowed In

R-6, R-10, RX-, OX-, NX-, CX-, DX-

#### C. Building Types Allowed

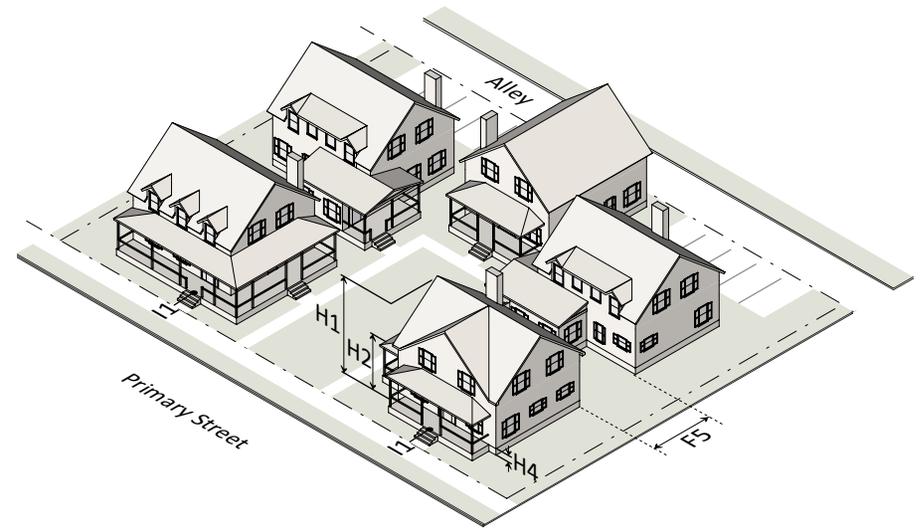
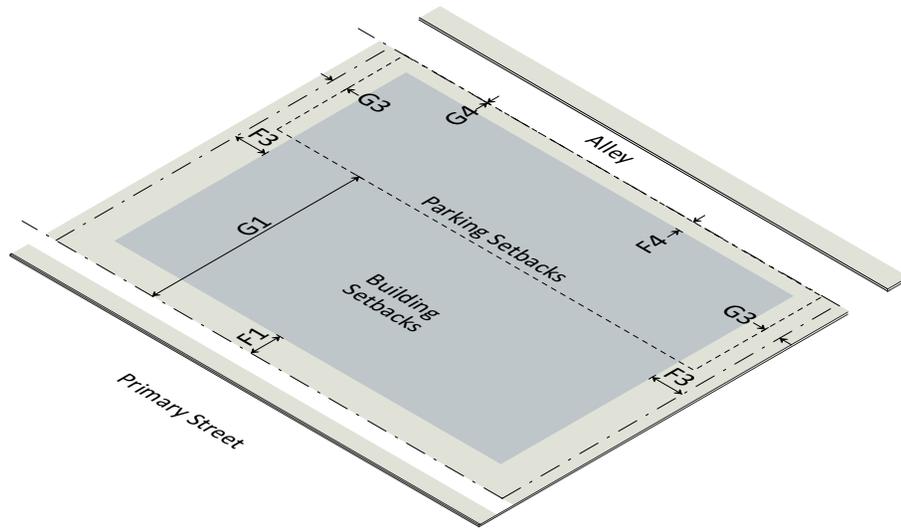
Detached house, attached house

#### D. Site Dimensions

	R-6	R-10	RX-, OX-, NX-, CX-, DX-
D1 Net site area (min)	40,000 sf	22,000 sf	18,000 sf
D2 Width (min)	150'	150'	150'
D3 Depth (min)	120'	120'	120'
D4 Dwelling units per min site area (max)	5	5	5
D5 Additional site area per dwelling unit (min)	8,000 sf	4,400 sf	3,600 sf
D6 Dwelling units per site (max)	6 u/a	10 u/a	n/a
D7 Building footprint (max)	1,400	1,200 sf	1,000 sf
D8 Detached accessory structure footprint (max)	450 sf	450 sf	450 sf

#### E. Internal Courtyard

	R-6	R-10	RX-, OX-, NX-, CX-, DX-
E1 Area (min)	5,000 sf	4,000 sf	3,000 sf
E2 Width (min)	60'	50'	40'
E3 Additional courtyard area per unit (min)	1,000 sf	800 sf	600 sf



	R-6	R-10	RX-, OX-, NX-, CX-, DX-
<b>F. Building/Structure Setbacks</b>			
F1 From primary street (min)	10'	10'	10'
F2 From side street (min)	10'	10'	10'
F3 From side lot line (min)	10'	10'	10'
F4 From rear lot line (min)	20'	20'	20'
F4 From alley (min)	5'	5'	5'
F5 Building separation (min)	6'	6'	6'
<b>G. Parking Setbacks</b>			
G1 From primary street (min)	90'	90'	90'
G2 From side street (min)	10'	10'	10'
G3 From side lot line (min)	5'	5'	5'
G4 From rear lot line (min)	5'	5'	5'
G4 From alley (min)	0'	0'	0'

	R-6	R-10	RX-, OX-, NX-, CX-, DX-
<b>H. Height</b>			
H1 Building height (max)	25'	25'	25'
H2 Building wall plate height (max)	17'	17'	17'
H3 Accessory building height (max)	17'	17'	17'
H4 Ground floor elevation (min)	2'	2'	2'
<b>I. Pedestrian Access</b>			
I1 Street-facing entrance or front porch required for end units	yes	yes	yes
<b>J. Allowed Building Elements</b>			
Porch, stoop			

See Sec. 1.5.11. for specific building element requirements.

### **Sec. 2.6.2. Detached House Additions**

When an existing detached house is converted to an attached or apartment building type and an addition is added to the existing building, the following regulations apply:

- A. The addition must contain the same building materials as the existing structure;
- B. The roof pitch and form of the addition shall be the same as the existing structure;
- C. The height of the addition shall not exceed the height of the existing structure;
- D. The building addition shall not cumulatively exceed 50% of the floor area of the existing structure; and
- E. Additions made after September 1, 2013, which do not comply with paragraphs A through D. above shall not be used for conversions that add one or more dwelling units.

# CHAPTER 3. MIXED USE DISTRICTS

<b>Article 3.1. General Provisions</b>	<b>3 – 2</b>	<b>Article 3.4. Frontage Requirements</b>	<b>3 – 14</b>
Sec. 3.1.1. District Intent Statements .....	3 – 2	Sec. 3.4.1. Purpose and Intent.....	3 – 14
Sec. 3.1.2. District Components .....	3 – 3	Sec. 3.4.2. General Requirements .....	3 – 15
<b>Article 3.2. Base Dimensional Standards</b>	<b>3 – 4</b>	Sec. 3.4.3. Parkway (-PK) .....	3 – 16
Sec. 3.2.1. Detached House .....	3 – 4	Sec. 3.4.4. Detached (-DE).....	3 – 17
Sec. 3.2.2. Attached House .....	3 – 5	Sec. 3.4.5. Parking Limited (-PL).....	3 – 18
Sec. 3.2.3. Townhouse .....	3 – 6	Sec. 3.4.6. Green (-GR).....	3 – 19
Sec. 3.2.4. Apartment .....	3 – 7	Sec. 3.4.7. Urban Limited (-UL) .....	3 – 20
Sec. 3.2.5. General Building .....	3 – 8	Sec. 3.4.8. Urban General (-UG) .....	3 – 21
Sec. 3.2.6. Mixed Use Building .....	3 – 9	Sec. 3.4.9. Shopfront (-SH) .....	3 – 22
Sec. 3.2.7. Civic Building.....	3 – 10	<b>Article 3.5. Neighborhood Transitions</b>	<b>3 – 23</b>
Sec. 3.2.8. Open Lot .....	3 – 11	Sec. 3.5.1. Applicability .....	3 – 23
<b>Article 3.3. Height Requirements</b>	<b>3 – 12</b>	Sec. 3.5.2. Transition Zones.....	3 – 23
Sec. 3.3.1. Applicability .....	3 – 12	Sec. 3.5.3. Zone A: Protective Yard .....	3 – 24
Sec. 3.3.2. Building Height Standards .....	3 – 12	Sec. 3.5.4. Zone B: Use Restrictions .....	3 – 25
Sec. 3.3.3. Building Massing Standards .....	3 – 13	Sec. 3.5.5. Zone C: Height and Form .....	3 – 26

## Article 3.1. General Provisions

### Sec. 3.1.1. District Intent Statements

#### A. Residential Mixed Use (RX-)

1. RX- is a mixed residential district intended to provide for a variety of residential building types and housing options at density in excess of 10 dwelling units per acre.
2. RX- can serve as a land use transition between other mixed use districts and residential neighborhoods.
3. RX- allows limited retail and services subject to use standards that limit the size and scale to the ground floor corner unit of an apartment building.

#### B. Office Park (OP-)

1. OP- is intended to preserve and provide land for office and employment uses.
2. OP- can also serve as a land use transition between other mixed use districts and residential neighborhoods.

#### C. Office Mixed Use (OX-)

1. OX- is intended to provide for a variety of office and employment uses while allowing for housing and limited retail and service-related options. Limited retail and service-related options are allowed subject to use standards that restrict the size and scale of each use.
2. OX- is not intended to provide for areas exclusively dominated by office or employment uses but provide for developments that balance employment and housing options with access to convenience retail services and goods.
3. OX- can serve as a land use transition between other mixed use districts and residential neighborhoods.

#### D. Neighborhood Mixed Use (NX-)

1. NX- is intended to provide for a variety of residential, retail, service and commercial uses all within walking distance of residential neighborhoods.
2. To limit the overall scale, NX- has a maximum lot size of 10 acres. Maximum height limits should be compatible with adjacent residential development.

#### E. Commercial Mixed Use (CX-)

1. CX- is intended to provide for a variety of residential, retail, service and commercial uses.
2. While CX- accommodates commercial uses, the inclusion of residential and employment uses are strongly encouraged in order to promote live-work and mixed use opportunities.

#### F. Downtown Mixed Use (DX-)

DX- is intended to provide for intense mixed use development of the City's downtown area.

#### G. Industrial Mixed Use (IX-)

1. IX- is intended to provide for a variety of light industrial and manufacturing uses while allowing for retail, service and commercial activity and limited housing opportunities. To help ensure that land is reserved for manufacturing and employment, residential uses are limited to the upper stories of mixed use buildings.
2. IX- is not intended to provide for areas exclusively dominated by light industrial or manufacturing but provide for developments that incorporate commercial uses with housing, retail and service-related activity.
3. IX- can serve as a land use transition between heavy industrial areas and mixed use districts.

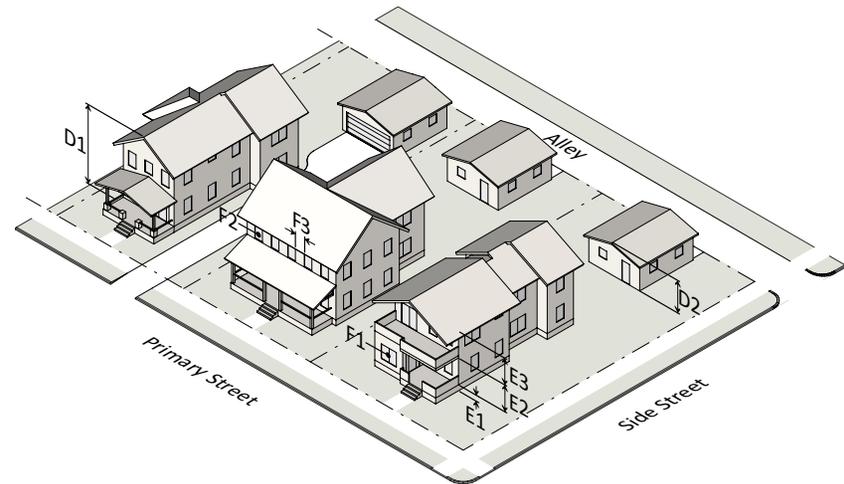
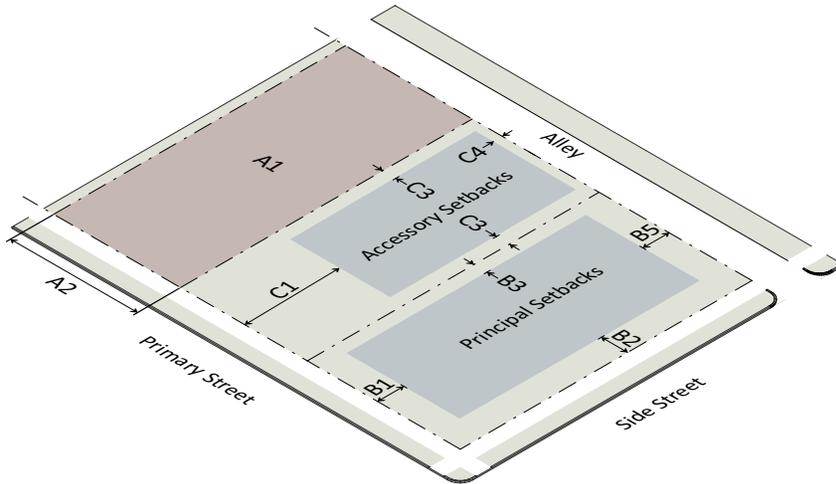
### Sec. 3.1.2. District Components

- A. Each Mixed Use District is comprised of one or more of the following components:
  1. Use and Base Dimensions (RX-, OP-, OX-, NX-, CX-, DX-, IX-);
  2. Height (-3, -4, -5, -7, -12, -20, -40); and
  3. Frontage (-PK, -DE, -PL, -GR, -UL, -UG, -SH).
- B. A variety of Mixed Use Districts can be constructed by applying different height and frontage configurations as shown in the table below.
- C. Each Mixed Use District must include a height designation. A frontage is optional unless it has already been applied to the property and designated on the Official Zoning Map.
- D. Neighborhood transitions apply when adjacent to a residential district (see *Article 3.5. Neighborhood Transitions*).

Use and Base Dimensions	Height	Frontage	Examples
<i>Specifies the range of uses allowed (Chapter 6. Use Regulations) and base dimensional standards for allowed building types (Article 3.2. Base Dimensional Standards).</i>	<i>Sets the maximum allowed height for the district (Article 3.3. Height Requirements)</i>	<i>Frontages place additional limitations beyond the base dimensional standards (Article 3.4. Frontage Requirements)</i>	
RX- = Residential Mixed Use OP- = Office Park OX- = Office Mixed Use NX- = Neighborhood Mixed Use CX- = Commercial Mixed Use DX- = Downtown Mixed Use IX- = Industrial Mixed Use	3 = 3 stories max 4 = 4 stories max 5 = 5 stories max 7 = 7 stories max 12 = 12 stories max 20 = 20 stories max 40 = 40 stories max	PK = Parkway DE = Detached PL = Parking Limited GR = Green UL = Urban Limited UG = Urban General SH = Shopfront	RX-3: Residential Mixed Use, up to 3 stories, no frontage required  OX-5-SH: Office mixed use, up to 5 stories, shopfront frontage required  CX-7-PK: Commercial mixed use, up to 7 stories, parkway frontage required

## Article 3.2. Base Dimensional Standards

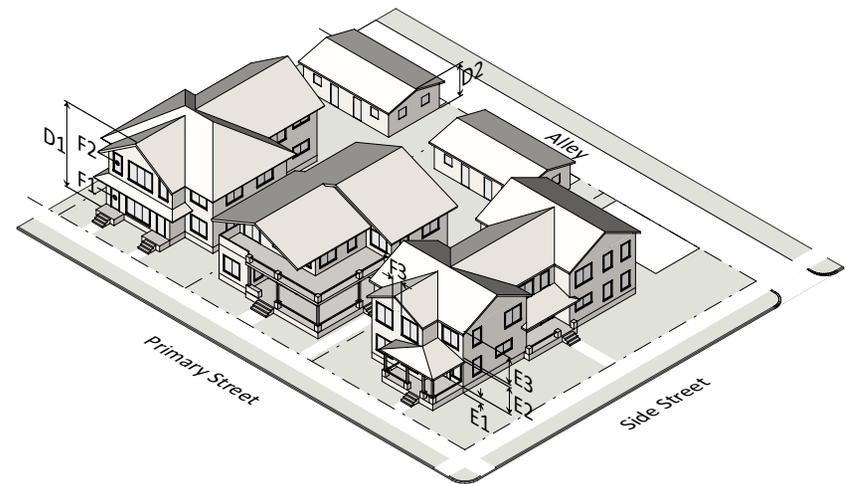
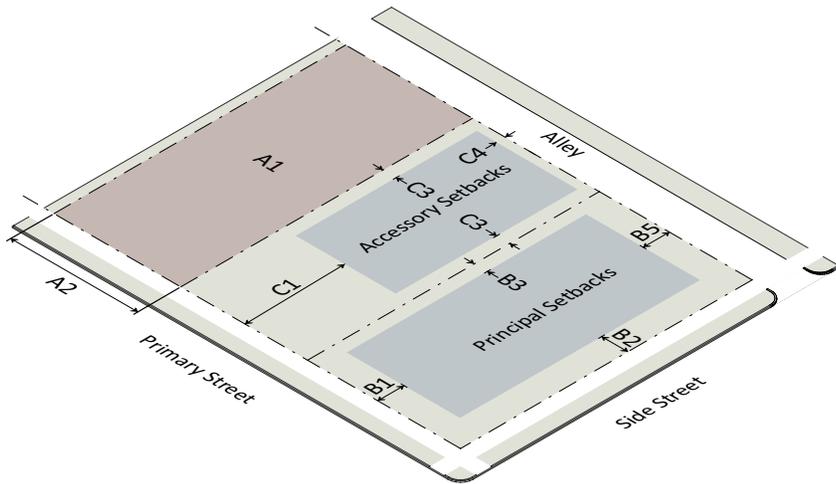
### Sec. 3.2.1. Detached House



	RX-, OX-, NX-, CX-	DX-
<b>A. Lot Dimensions</b>		
A1 Area (min)	4,000 sf	n/a
A2 Width (min)	45'	n/a
<b>B. Principal Building Setbacks</b>		
B1 From primary street (min)	10'	5'
B2 From side street (min)	10'	5'
B3 From side lot line (min)	5'	3'
B4 Sum of side setbacks (min)	10'	6'
B5 From rear lot line (min)	20'	10'
<b>C. Accessory Structure Setbacks</b>		
C1 From primary street (min)	50'	30'
C2 From side street (min)	10'	5'
C3 From side lot line (min)	5'	3'
C4 From rear lot line (min)	5'	3'
C4 From alley	4' or 20' min	4' or 20' min

	RX-, OX-, NX-, CX-	DX-
<b>D. Height</b>		
D1 Principal building (max)	40'/3 stories	40'/3 stories
D2 Accessory structure (max)	25'	25'
<b>E. Floor Heights</b>		
E1 Ground floor elevation (min)	2'	2'
E2 Ground story height, floor to ceiling (min)	n/a	n/a
E3 Upper story height, floor to ceiling (min)	n/a	n/a
<b>F. Transparency</b>		
F1 Ground story (min)	20%	20%
F2 Upper story (min)	15%	15%
F3 Blank wall area (max)	35'	35'
<b>G. Allowed Building Elements</b>		
Porch, stoop		
Balcony		
See Sec. 1.5.11. for specific building element requirements.		

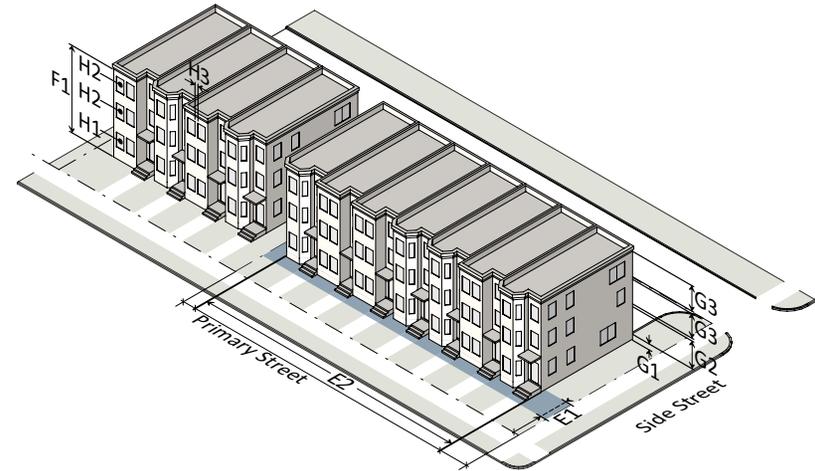
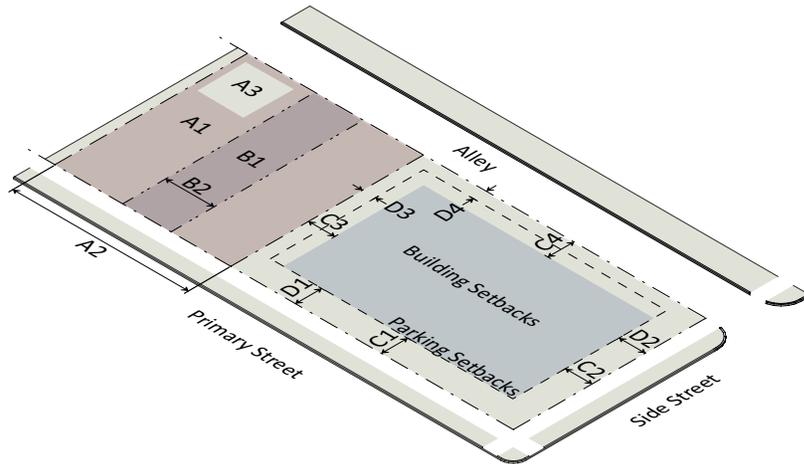
### Sec. 3.2.2. Attached House



	RX-, OX-, NX-, CX-	DX-
<b>A. Lot Dimensions</b>		
A1 Area (min)	6,000 sf	n/a
A2 Width (min)	50'	n/a
<b>B. Principal Building Setbacks</b>		
B1 From primary street (min)	10'	5'
B2 From side street (min)	10'	5'
B3 From side lot line (min)	5'	3'
B4 Sum of side setbacks (min)	10'	6'
B5 From rear lot line (min)	20'	10'
<b>C. Accessory Structure Setbacks</b>		
C1 From primary street (min)	50'	30'
C2 From side street (min)	10'	5'
C3 From side lot line (min)	5'	3'
C4 From rear lot line (min)	5'	3'
C4 From alley	4' or 20' min	4' or 20' min

	RX-, OX-, NX-, CX-	DX-
<b>D. Height</b>		
D1 Principal building (max)	40'/3 stories	40'/3 stories
D2 Accessory structure (max)	25'	25'
<b>E. Floor Heights</b>		
E1 Ground floor elevation (min)	2'	2'
E2 Ground story height, floor to ceiling (min)	n/a	n/a
E3 Upper story height, floor to ceiling (min)	n/a	n/a
<b>F. Transparency</b>		
F1 Ground story (min)	20%	20%
F2 Upper story (min)	15%	15%
F3 Blank wall area (max)	35'	35'
<b>G. Allowed Building Elements</b>		
Porch, stoop		
Balcony		
See Sec. 1.5.11. for specific building element requirements.		

### Sec. 3.2.3. Townhouse

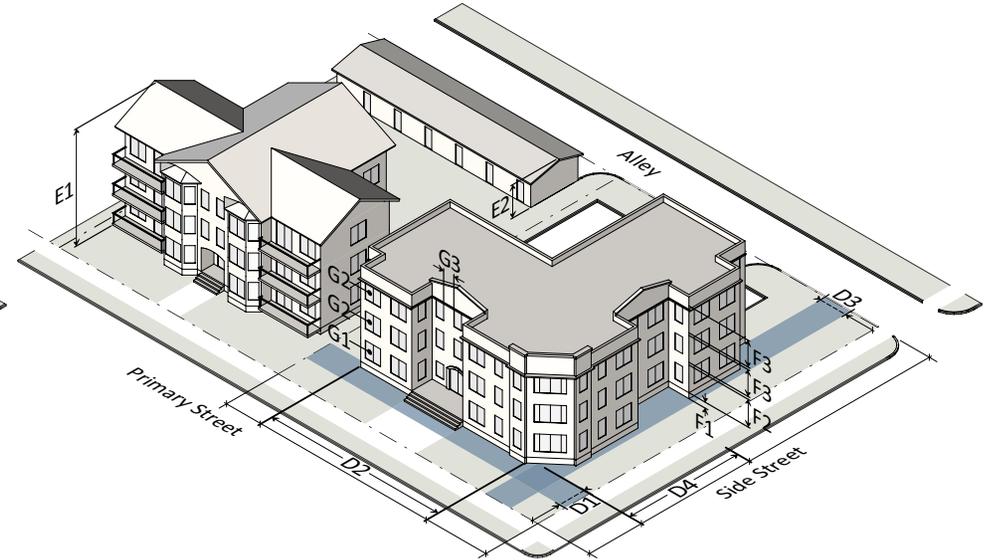
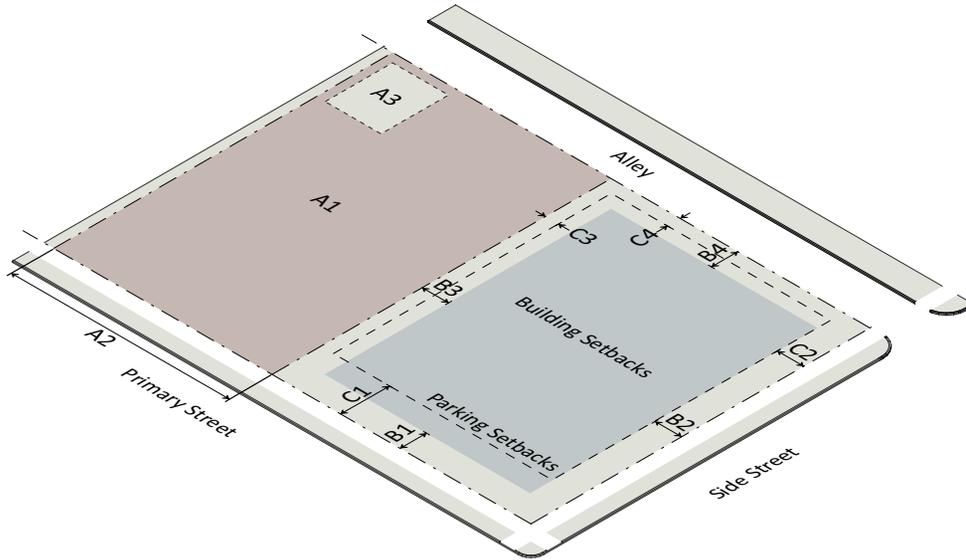


	RX-, OX-, NX-, CX-	DX-
<b>A. Site Dimensions</b>		
A1 Area (min)	3,300 sf	n/a
A2 Width (min)	44'	n/a
A3 Outdoor amenity area (min)	10%	10%
<b>B. Lot Dimensions</b>		
B1 Area (min)	n/a	n/a
B2 Width (min)	16'	n/a
<b>C. Building/Structure Setbacks</b>		
C1 From primary street (min)	10'	5'
C2 From side street (min)	10'	5'
C3 From side lot line (min)	0' or 6'	0' or 6'
C4 From rear lot line (min)	20'	0' or 6'
C4 From alley	4' or 20' min	4' or 20' min
<b>D. Parking Setbacks</b>		
D1 From primary street (min)	20'	20'
D2 From side street (min)	10'	10'
D3 From side lot line (min)	0' or 3'	0' or 3'
D4 From rear lot line (min)	3'	3'
D4 From alley (min)	4'	4'

	RX-, OX-, NX-, CX-	DX-
<b>E. Build-to (Site)</b>		
E1 Primary street build-to (min/max)	10'/30'	10'/30'
E2 Building width in primary build-to (min)	70%	70%
<b>F. Height</b>		
F1 Principal building (max)	45'/3 stories	45'/3 stories
F2 Accessory structure (max)	25'	25'
<b>G. Floor Heights</b>		
G1 Ground floor elevation (min)		
Residential	2'	2'
Nonresidential	n/a	n/a
G2 Ground story height, floor to ceiling (min)	n/a	n/a
G3 Upper story height, floor to ceiling (min)	n/a	n/a
<b>H. Transparency</b>		
H1 Ground story (min)	20%	20%
H2 Upper story (min)	15%	15%
H3 Blank wall area (max)	35'	35'
<b>I. Allowed Building Elements</b>		
Porch, stoop		
Balcony		

See Sec. 1.5.11. for specific building element requirements.

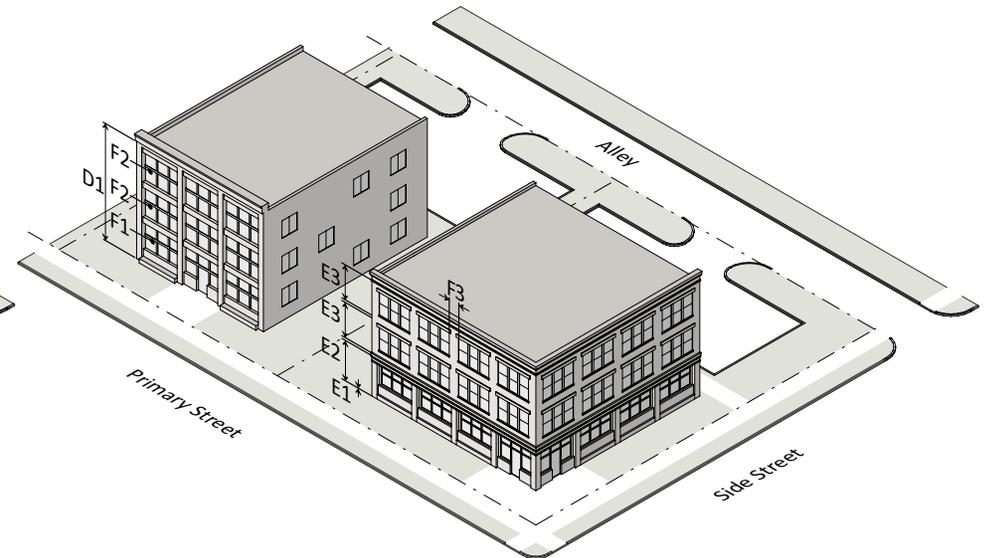
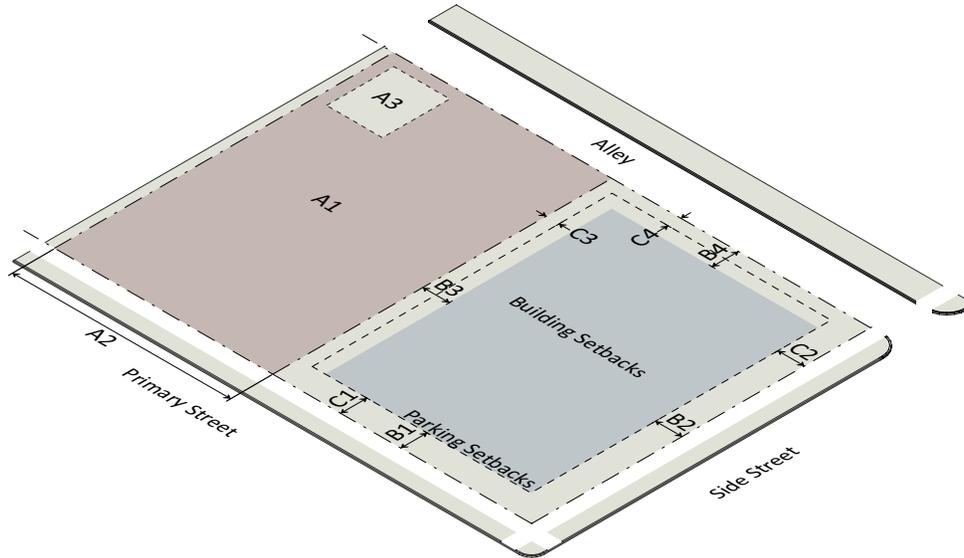
**Sec. 3.2.4. Apartment**



	RX-, OX-, NX-, CX-	DX-
<b>A. Lot Dimensions</b>		
A1 Area (min)	10,000 sf	n/a
A1 Area (max)	10 acres (NX- only)	n/a
A2 Width (min)	n/a	n/a
A3 Outdoor amenity area (min)	10%	10%
<b>B. Building/Structure Setbacks</b>		
B1 From primary street (min)	5'	5'
B2 From side street (min)	5'	5'
B3 From side lot line (min)	0' or 6'	0' or 6'
B4 From rear lot line (min)	0' or 6'	0' or 6'
B4 From alley	4' or 20' min	4' or 20' min
<b>C. Parking Setbacks</b>		
C1 From primary street (min)	10'	10'
C2 From side street (min)	10'	10'
C3 From side lot line (min)	0' or 3'	0' or 3'
C4 From rear lot line (min)	0' or 3'	0' or 3'
C4 From alley (min)	4'	4'

	RX-, OX-, NX-, CX-	DX-
<b>D. Build-to</b>		
D1 Primary street build-to (min/max)	10'/30'	10'/30'
D2 Building width in primary build-to (min)	70%	70%
D3 Side street build-to (min/max)	10'/30'	10'/30'
D4 Building width in side build-to (min)	35%	35%
<b>E. Height</b>		
E1 Principal building (max)	Set by district	Set by district
E2 Accessory structure (max)	25'	25'
<b>F. Floor Heights</b>		
F1 Ground floor elevation (min)		
Residential	2'	2'
Nonresidential	n/a	n/a
F2 Ground story height, floor to ceiling (min)	n/a	n/a
F3 Upper story height, floor to ceiling (min)	n/a	n/a
<b>G. Transparency</b>		
G1 Ground story (min)	20%	20%
G2 Upper story (min)	15%	15%
G3 Blank wall area (max)	35'	35'
<b>H. Allowed Building Elements</b>		
Porch, stoop		
Balcony		

### Sec. 3.2.5. General Building

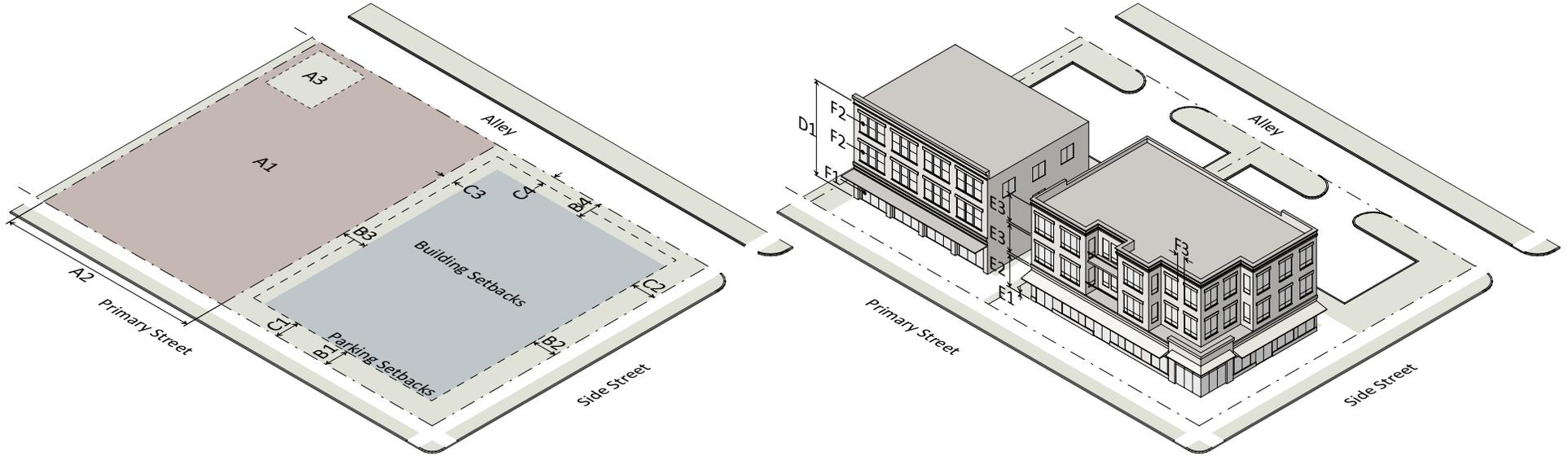


	OP-, OX- NX-, CX-	DX-	IX-
<b>A. Lot Dimensions</b>			
A1 Area (min)	n/a	n/a	n/a
A1 Area (max)	10 acres (NX- only)	n/a	n/a
A2 Width (min)	n/a	n/a	n/a
A3 Outdoor amenity area (min)	10%	10%	10%
<b>B. Building/Structure Setbacks</b>			
B1 From primary street (min)	5'	3'	3'
B2 From side street (min)	5'	3'	3'
B3 From side lot line (min)	0' or 6'	0' or 6'	0' or 6'
B4 From rear lot line (min)	0' or 6'	0' or 6'	0' or 6'
B4 From alley (min)	5'	5'	5'
<b>C. Parking Setbacks</b>			
C1 From primary street (min)	10'	10'	10'
C2 From side street (min)	10'	10'	10'
C3 From side lot line (min)	0' or 3'	0' or 3'	0' or 3'
C4 From rear lot line (min)	0' or 3'	0' or 3'	0' or 3'
C4 From alley (min)	5'	5'	5'

	OP-, OX- NX-, CX-	DX-	IX-
<b>D. Height</b>			
D1 Principal building (max)	Set by district	Set by district	Set by district
D2 Accessory structure (max)	25'	25'	25'
<b>E. Floor Heights</b>			
E1 Ground floor elevation (min)	0'	0'	0'
E2 Ground story height, floor to ceiling (min)	11'	13'	11'
E3 Upper story height, floor to ceiling (min)	9'	9'	9'
<b>F. Transparency</b>			
F1 Ground story (min)	33%	50%	20%
F2 Upper story (min)	20%	20%	20%
F3 Blank wall area (max)	30'	30'	50'
<b>G. Allowed Building Elements</b>			
Balcony			
Gallery, awning			

See Sec. 1.5.11. for specific building element requirements.

### Sec. 3.2.6. Mixed Use Building

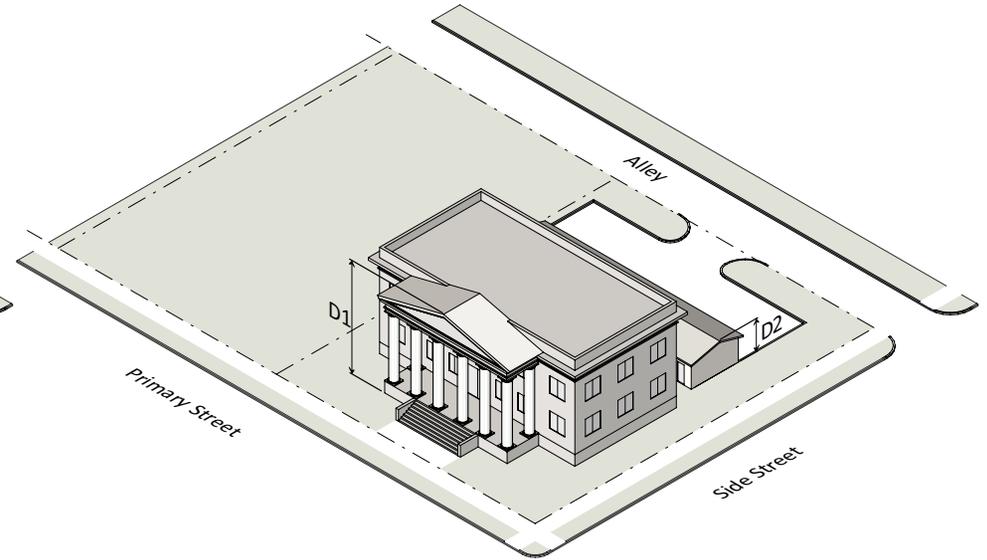
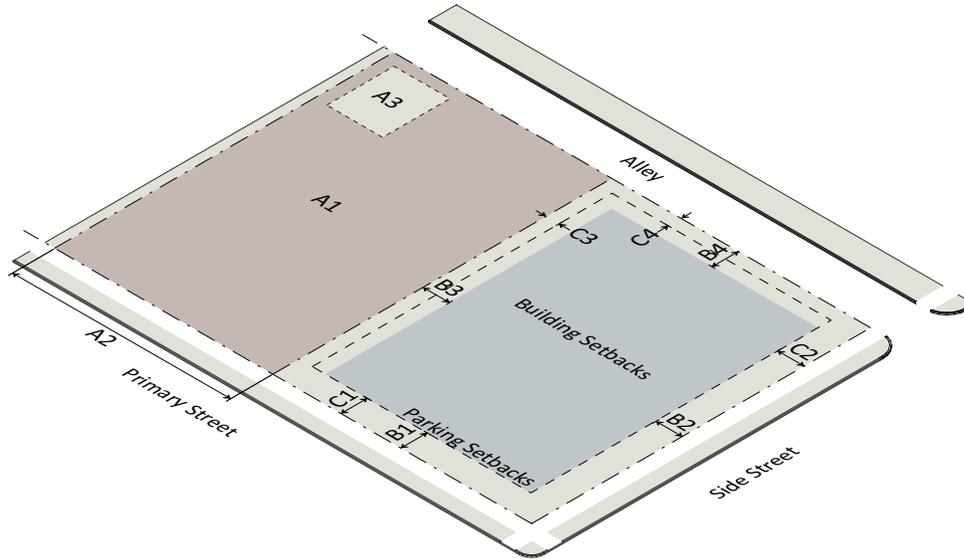


	OP-, OX- NX-, CX-, IX-	DX-
<b>A. Lot Dimensions</b>		
A1 Area (min)	n/a	n/a
A1 Area (max)	10 acres (NX- only)	n/a
A2 Width (min)	n/a	n/a
A3 Outdoor amenity area (min)	10%	10%
<b>B. Building/Structure Setbacks</b>		
B1 From primary street (min)	5'	3'
B2 From side street (min)	5'	3'
B3 From side lot line (min)	0' or 6'	0' or 6'
B4 From rear lot line (min)	0' or 6'	0' or 6'
B4 From alley (min)	5'	5'
<b>C. Parking Setbacks</b>		
C1 From primary street (min)	10'	10'
C2 From side street (min)	10'	10'
C3 From side lot line (min)	0' or 3'	0' or 3'
C4 From rear lot line (min)	0' or 3'	0' or 3'

	OP-, OX- NX-, CX-, IX-	DX-
C4 From alley (min)	5'	5'
<b>D. Height</b>		
D1 Principal building (max)	Set by district	Set by district
D2 Accessory structure (max)	25'	25'
<b>E. Floor Heights</b>		
E1 Ground floor elevation (min)	0'	0'
E2 Ground story height, floor to ceiling (min)	13'	15'
E3 Upper story height, floor to ceiling (min)	9'	9'
<b>F. Transparency</b>		
F1 Ground story (min)	50%	66%
F2 Upper story (min)	20%	20%
F3 Blank wall area (max)	20'	20'
<b>G. Allowed Building Elements</b>		
Balcony		
Gallery, awning		

See Sec. 1.5.11. for specific building element requirements.

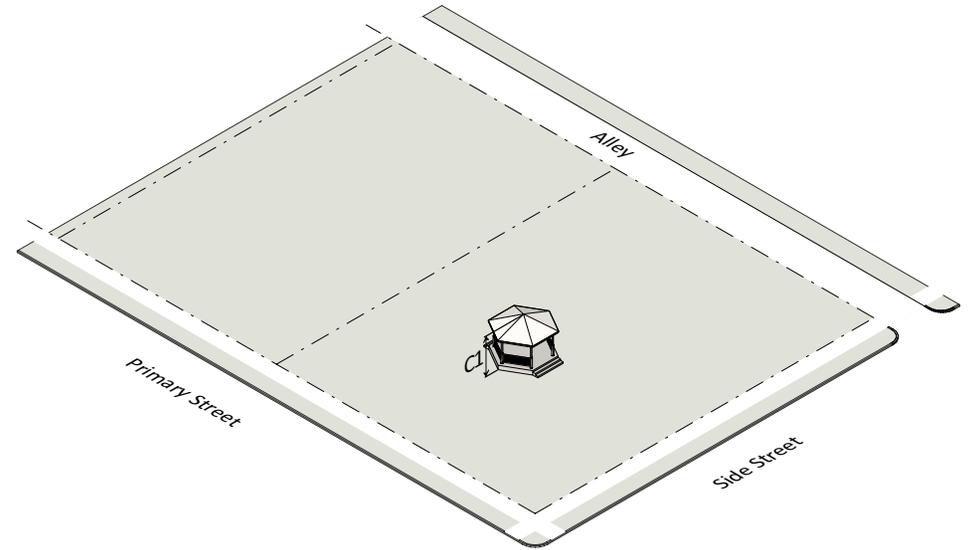
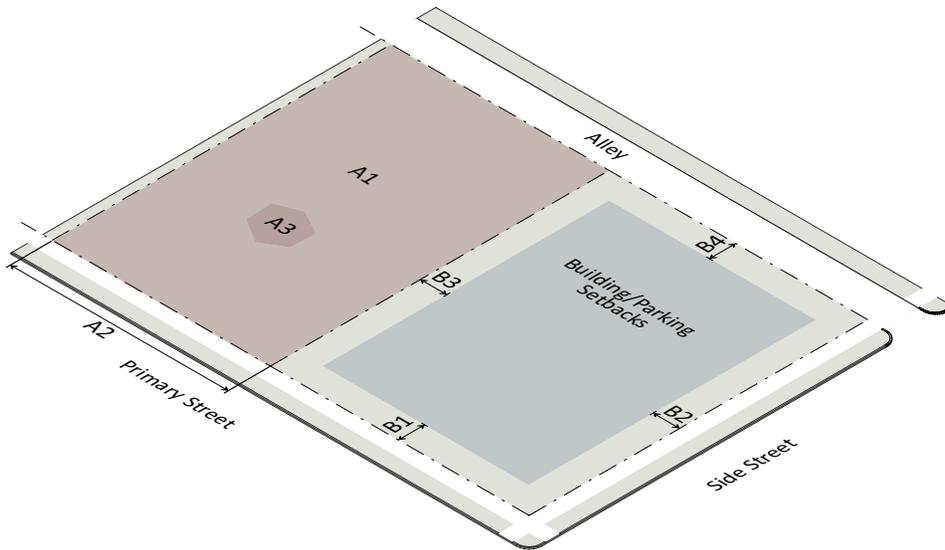
### Sec. 3.2.7. Civic Building



	RX-, OP-, OX- NX-, CX-, IX-	DX-
<b>A. Lot Dimensions</b>		
A1 Area (min)	n/a	n/a
A1 Area (max)	10 acres (NX- only)	n/a
A2 Width (min)	n/a	n/a
A3 Outdoor amenity area (min)	10%	10%
<b>B. Building/Structure Setbacks</b>		
B1 From primary street (min)	10'	5'
B2 From side street (min)	10'	5'
B3 From side lot line (min)	0' or 6'	0' or 6'
B4 From rear lot line (min)	0' or 6'	0' or 6'
B4 From alley (min)	5'	5'
<b>C. Parking Setbacks</b>		
C1 From primary street (min)	10'	10'
C2 From side street (min)	10'	10'
C3 From side lot line (min)	0' or 3'	0' or 3'
C4 From rear lot line (min)	0' or 3"	0' or 3'
C4 From alley (min)	5'	5'

	RX-, OP-, OX- NX-, CX-, IX-	DX-
<b>D. Height</b>		
D1 Principal building (max)	Set by district	Set by district
D2 Accessory structure (max)	25'	25'
<b>E. Allowed Building Elements</b>		
Balcony		
Gallery, awning		
See Sec. 1.5.11. for specific building element requirements.		

### Sec. 3.2.8. Open Lot



	RX-, OP-, OX- NX-, CX-, IX-	DX-
<b>A. Lot Dimensions</b>		
A1 Area (min)	5,000 sf	n/a
A2 Width (min)	50'	n/a
A3 Building coverage (max)	15%	15%
<b>B. Building/Parking Setbacks</b>		
B1 From primary street (min)	10'	10'
B2 From side street (min)	10'	10'
B3 From side lot line (min)	10'	10'
B4 From rear lot line (min)	10'	10'

	RX-, OP-, OX- NX-, CX-, IX-	DX-
B4 From alley (min)	10'	10'
<b>C. Height</b>		
C1 All building/structures (max)	40'/3 stories	40'/3 stories
<b>D. Allowed Building Elements</b>		
Porch, stoop		
Balcony		
Gallery, awning		
See Sec. 1.5.11. for specific building element requirements.		

## Article 3.3. Height Requirements

### Sec. 3.3.1. Applicability

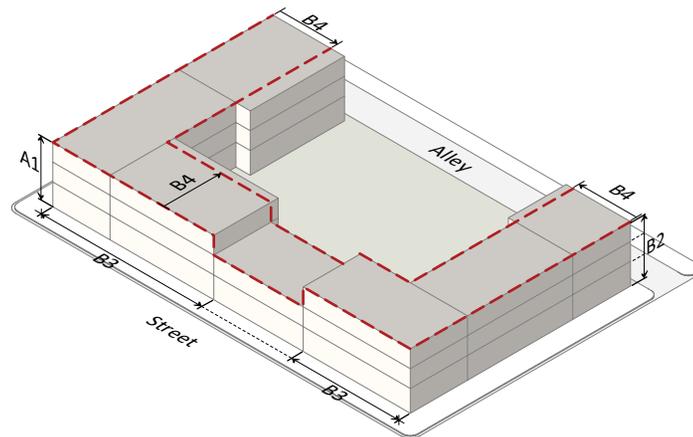
A. Each Mixed Use District must include one of the following height designations. The designation establishes the maximum height in stories and feet for each mixed use district. For example, CX-7 has a maximum height limit of 7 stories or 90 feet.

- 3 3 stories / 50 feet max
- 4 4 stories / 62 feet max
- 5 5 stories / 75 feet max
- 7 7 stories / 90 feet max
- 12 12 stories / 150 feet max
- 20 20 stories / 250 feet max
- 40 40 stories / 500 feet max

B. The height requirements apply to apartments, general buildings, mixed use buildings and civic buildings. Maximum heights for detached house, attached house, townhouse and open lot are set forth in Article 3.2. *Base Dimensional Standards*.

C. The minimum height requirements apply only to the Urban Frontages. The Urban Frontages include the following: Green, Urban Limited, Urban General and Shopfront. Civic buildings are exempt from the minimum height requirements.

### Sec. 3.3.2. Building Height Standards



	District	-3	-4	-5	-7	-12	-20	-40
<b>A. Max Height</b>								
A1	Building height (max stories)	3	4	5	7	12	20	40
A1	Building height (max feet)	50'	62'	75'	90'	150'	250'	500'
<b>B. Min Height (Urban Frontages Only)</b>								
B2	Building height (min stories)	n/a	n/a	n/a	2	2	3	3
B3	Street facing facade at min height (min % of lot width)	n/a	n/a	n/a	75%	75%	75%	75%
B4	Depth of min height from front building facade into lot (min)	n/a	n/a	n/a	30'	45'	60'	60'

### Sec. 3.3.3. Building Massing Standards

#### A. Intent

The intent of the building massing regulations is to manage the impact of tall buildings located near the public right-of-way. Stepbacks are intended to provide access to light and air at street level, mitigate wind impacts, produce a consistent street wall and visually reduce the perceived scale of a building to avoid a canyon effect.

#### B. Stepbacks

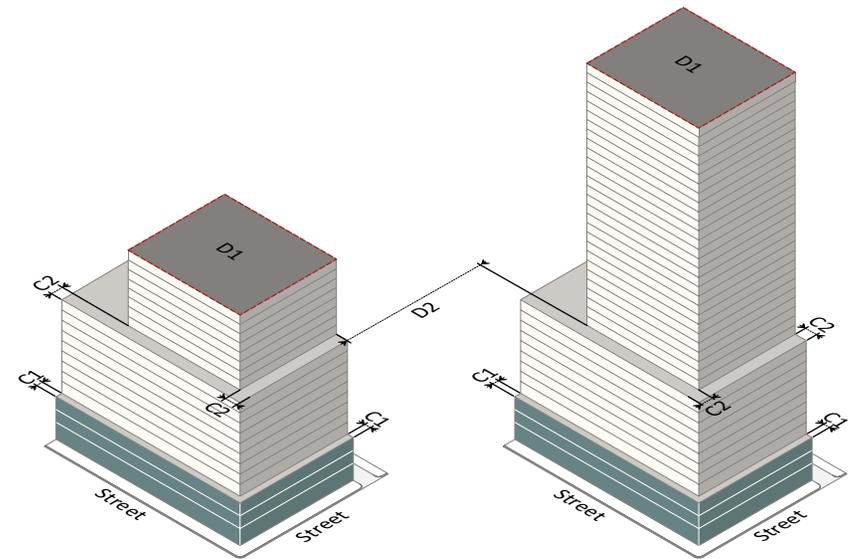
Buildings of 8 or more stories are required to place a stepback above the 3rd floor but below the 8th floor.

1. The stepback is only required on building faces adjoining the public street.
2. The depth of a required stepback may be reduced by 5 feet if the cornice line of the stepback matches the cornice line of an adjacent building.

#### C. Administrative Alternate Findings

The Planning and Development Officer may in accordance with Sec. 10.2.17. approve an alternate building massing standard, subject to all of the following findings:

1. The approved alternate meets the intent of the building massing regulations.
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans.
3. If the approved alternate uses a change in building materials to mimic a change in wall plane, the most substantial and durable building materials are located at the bottom floors of the building.
4. If the approved alternate proposes a building setback behind the sidewalk in lieu of a required stepback, the resulting open space includes public amenities such as seating areas, trees and landscaping or outdoor dining.
5. The building contains architectural treatments for delineating the base, middle and top of the building.



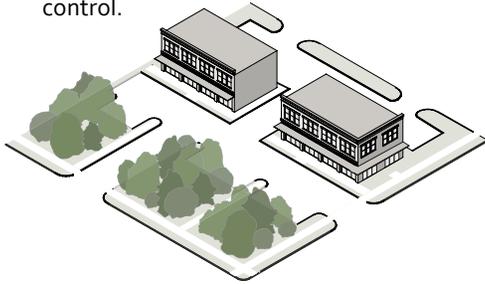
Height of Building	Up to 3 Stories	4 to 5 Stories	6 to 7 Stories	8 to 12 Stories	13 to 20 Stories	21 to 40 Stories	
<b>D. Massing</b>							
C1	3rd - 7th story stepback (min)	n/a	n/a	n/a	12'	15'	15'
<b>E. Towers</b>							
D1	Floor plate size above 12 stories (max)	n/a	n/a	n/a	n/a	25,000 sf	25,000 sf
D2	Spacing between towers - floors above 12 stories (min)*	n/a	n/a	n/a	n/a	n/a	100'

\* Building separation is measured orthogonally to the wall plane

## Article 3.4. Frontage Requirements

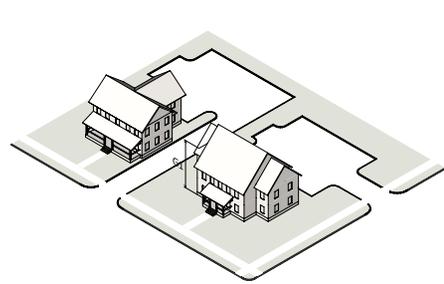
### Sec. 3.4.1. Purpose and Intent

Frontages link a desired development pattern with specific form requirements that mandate the type of development desired along the street edge. Frontages place different requirements from the base dimensional standards. Where there is a conflict between the base dimensional standards and the frontage requirements, the frontage requirements control.



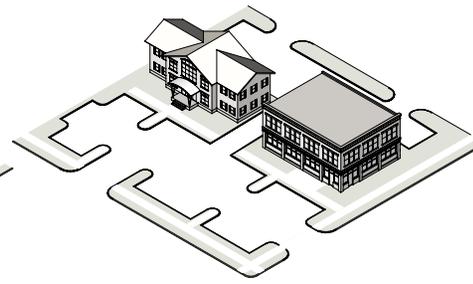
#### A. Parkway (-PK)

The -PK Frontage is intended to provide a heavily landscaped buffer between the roadway and adjacent development to ensure a continuous green corridor along the street right-of-way.



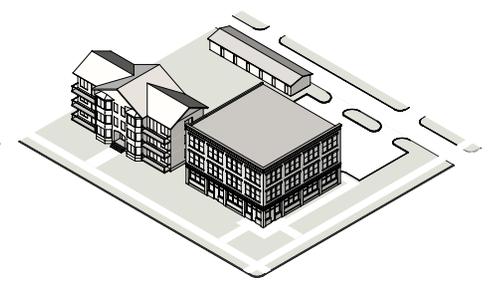
#### B. Detached (-DE)

The -DE Frontage is intended for areas adjacent to roadways transitioning from residential to commercial. Accommodates neighborhood-scaled, low intensity commercial uses while maintaining the residential character of the street right-of-way.



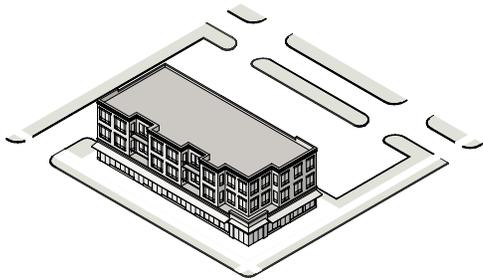
#### C. Parking Limited (-PL)

The -PL Frontage is intended for areas where access to buildings by automobile is desired but where some level of walkability is maintained. Permits a maximum of 2 bays of on-site parking with a single drive aisle between the building and the street right-of-way.



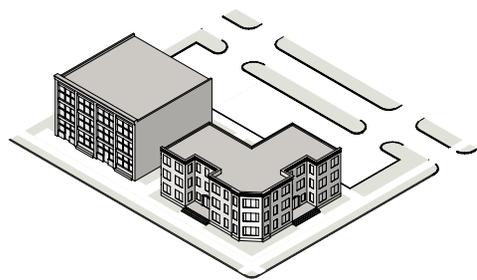
#### D. Green (-GR)

The -GR Frontage is intended for areas where it is desirable to locate buildings close to the street, but where parking between the building and street is not permitted. Requires a landscaped area between the building and the street right-of-way.



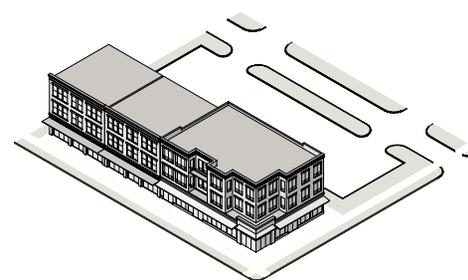
#### E. Urban Limited (-UL)

The -UL Frontage is intended for areas where parking between the building and street is not allowed. Buildings abut the street and sidewalk but to balance the needs of both the pedestrian and automobile lower street wall continuity is required.



#### F. Urban General (-UG)

The -UG Frontage is also intended for areas where parking between the building and street is not allowed. Buildings abut the street and sidewalk but higher street wall continuity is required than the -UL Frontage.



#### G. Shopfront (-SH)

The -SH Frontage is for intended for areas where the highest level of walkability is desired. The -SH Frontage is intended to create a "main street" type of environment; therefore, mixed use buildings are the primary building type allowed.

## Sec. 3.4.2. General Requirements

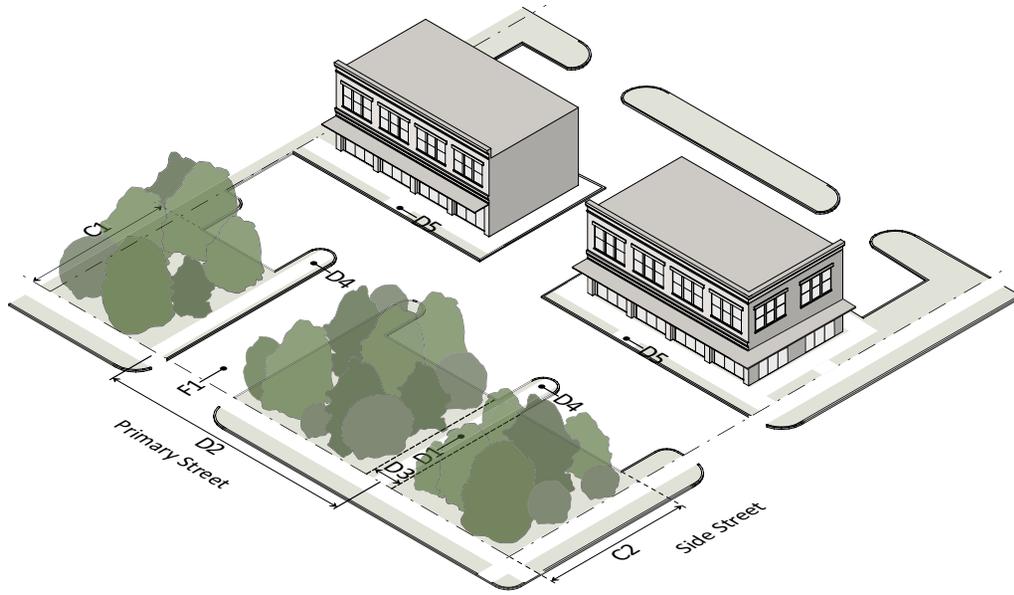
### A. Urban Frontages

The Urban Frontages include the following: Green, Urban Limited, Urban General and Shopfront.

### B. Design of Parking Structures on Urban Frontages

1. The ground story of structured parking must have active uses (such as, but not limited to, residential, commercial, office or civic space) located between the parking structure and any public sidewalk.
2. Where upper stories of structured parking are located at the perimeter of a building, they must be screened so that cars are not visible from adjacent streets. Sloped ramps cannot be discernible along the perimeter of the parking structure. Architectural and vegetative screens must be used to articulate the facade, hide parked vehicles and shield lighting. In addition, the ground floor facade treatment (building materials, windows and architectural detailing) shall be continued on upper stories.
3. Upper stories of parking structure facades shall be designed with both vertical (facade rhythm of 20 feet to 30 feet) and horizontal articulation (aligning with horizontal elements along the block).

### Sec. 3.4.3. Parkway (-PK)



#### A. Description

Provides for a heavily landscaped buffer between the roadway and adjacent development to ensure a continuous green corridor along the street right-of-way.

#### B. Building Types Allowed

Detached house (see Sec. 3.2.1.)	General building (see Sec. 3.2.5.)
Attached house (see Sec. 3.2.2.)	Mixed use building (see Sec. 3.2.6.)
Townhouse (see Sec. 3.2.3.)	Civic building (see Sec. 3.2.7.)
Apartment (see Sec. 3.2.4.)	Open lot (see Sec. 3.2.8.)

#### C. Additional Setbacks

C1	Building setback from primary street (min)	50'
C2	Parking setback from primary street (min)	50'

#### D. Pedestrian Access

D1	Pedestrian access required (minimum of 1 per lot)	yes
D2	Pedestrian access way spacing (max)	300'
D3	Width of pedestrian access way (min/max)	10'/20'
D4	A road or driveway with a sidewalk at least 6 feet in width may substitute for a required pedestrian access way	
D5	Direct pedestrian access is required from the public sidewalk to the primary entrance of the building	

#### E. Protective Yard Landscaping

E1	The 50-foot protective yard must be landscaped in accordance with Sec. 5.3.1.F. (SHOD-1 requirements)
----	---

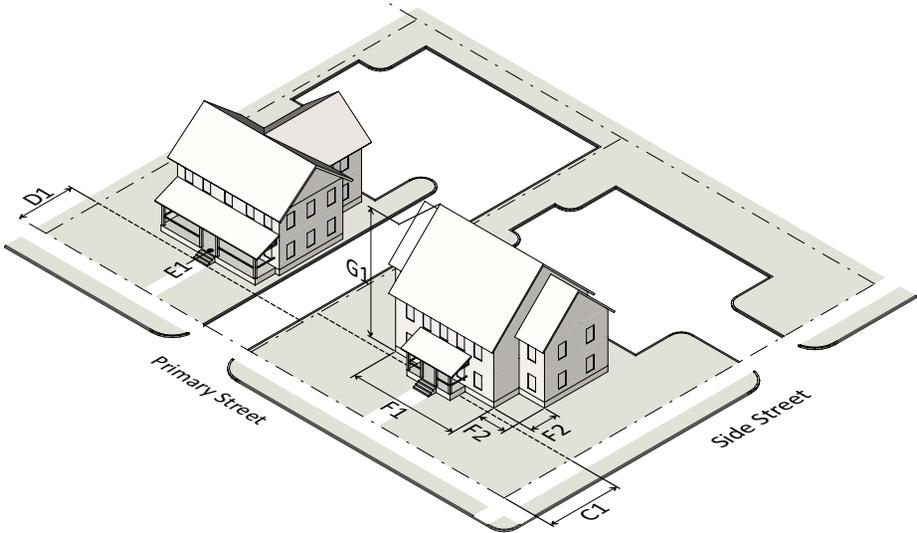
#### F. Protective Yard Encroachments

F1	Driveways	see Sec. 8.3.5.
F2	Ground signs	see Article 7.3.
F3	Pedestrian access way	

#### G. Streetscape Requirement

	Sidewalk & tree lawn	see Sec. 8.5.2.G.
--	----------------------	-------------------

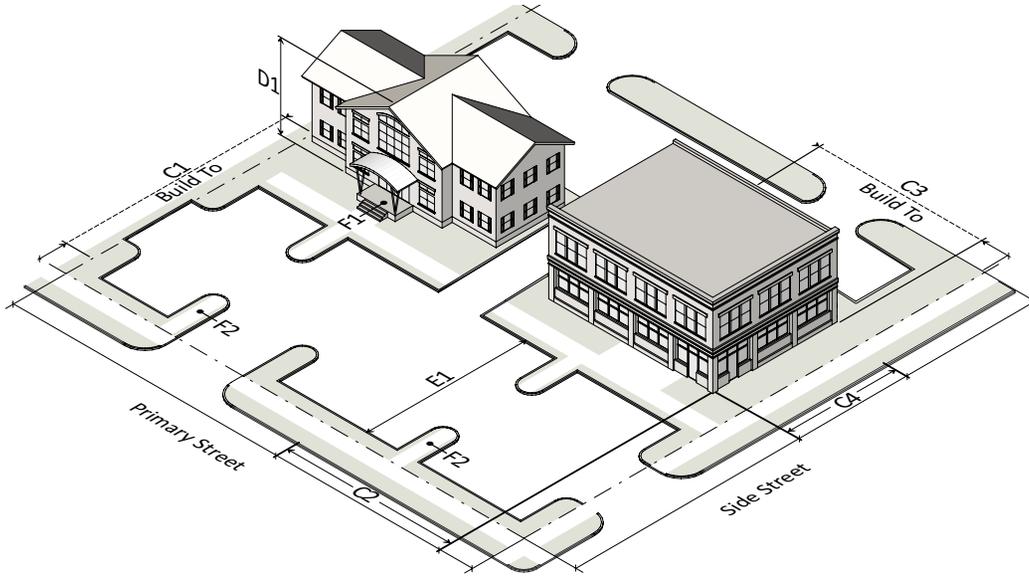
**Sec. 3.4.4. Detached (-DE)**



<b>A. Description</b>	
Intended for areas adjacent to roadways transitioning from residential to commercial. Accommodates neighborhood-scaled, low intensity commercial uses while maintaining the residential character of the street right-of-way.	
<b>B. Building Types Allowed</b>	
Detached house (see Sec. 3.2.1.)	Apartment (see Sec. 3.2.4.)
Attached house (see Sec. 3.2.2.)	Civic building (see Sec. 3.2.7.)
Townhouse (see Sec. 3.2.3.)	Open lot (see Sec. 3.2.8.)
<b>C. Additional Buildings Setbacks</b>	
C1	Average front setback applies (see Sec. 2.2.7.C.)
<b>D. Additional Parking Limitations</b>	
D1	No on-site parking or vehicular surface area permitted between the building and the street

<b>E. Pedestrian Access</b>	
E1	Primary street-facing entrance required (min of 1 per building)
E2	Direct pedestrian access is required from the public sidewalk to the primary street-facing entrance of the building
<b>F. Facade Articulation</b>	
F1	Front wall length without offset (max) 40'
F2	Front wall offset length and depth (min) 10'
<b>G. Height Limitations</b>	
G1	Height limit for frontage (max) 3 stories/50'
<b>H. Streetscape Requirement</b>	
Residential	see Sec. 8.5.2.D.

### Sec. 3.4.5. Parking Limited (-PL)



#### A. Description

Intended for areas where access to buildings by automobile is desired but where some level of walkability is maintained. Permits a maximum of 2 bays of on-site parking with a single drive aisle between the building and the street right-of-way.

#### B. Building Types Allowed

Townhouse (see Sec. 3.2.3.)	Mixed use building (see Sec. 3.2.6.)
Apartment (see Sec. 3.2.4.)	Civic building (see Sec. 3.2.7.)
General building (see Sec. 3.2.5.)	Open lot (see Sec. 3.2.8.)

#### C. Build-to

C1	Primary street build-to (min/max)	0'/100'
C2	Building width in primary build-to (min)	50%
C3	Side street build-to (min/max)	0'/100'
C4	Building width in side build-to (min)	25%

#### D. Height Limitations

D1	Height limit for frontage (max)	7 stories/90'
----	---------------------------------	---------------

#### E. Additional Parking Limitations

E1 A maximum of 2 bays of on-site parking with a single drive aisle is permitted between the building and the street.

#### F. Pedestrian Access

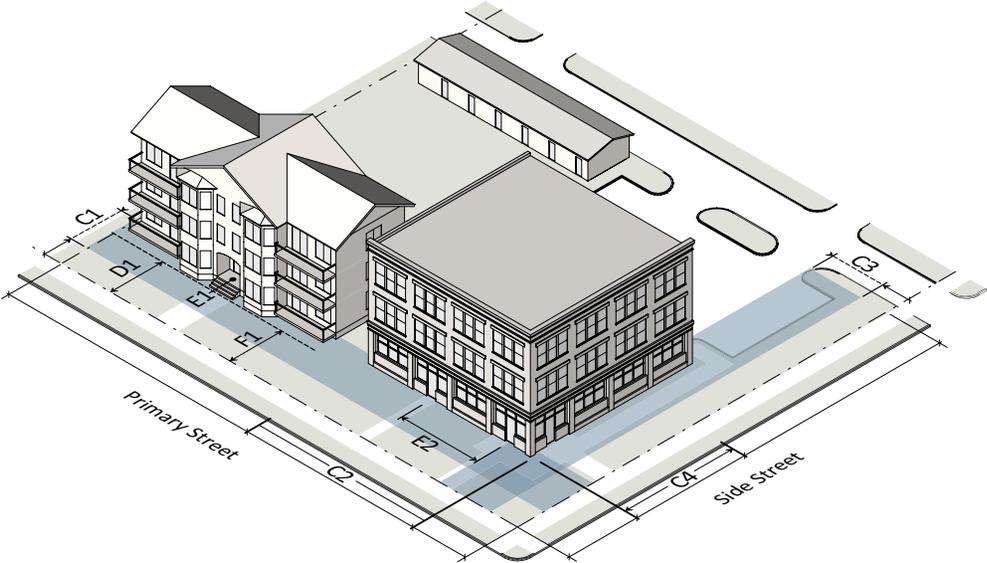
F1 Primary street-facing entrance required (min of 1 per building)  
 F2 Direct pedestrian access is required from the public sidewalk to the primary street-facing entrance of the building

#### G. Streetscape Requirement

Main Street; or	see Sec. 8.5.2.A.
Mixed Use; or	see Sec. 8.5.2.B.
Commercial; or	see Sec. 8.5.2.C.
Multi-way; or	see Sec. 8.5.2.E.
Parking.	see Sec. 8.5.2.F.

The determination of the appropriate streetscape treatment will be made by the Planning and Development Officer, based on the existing built context and character.

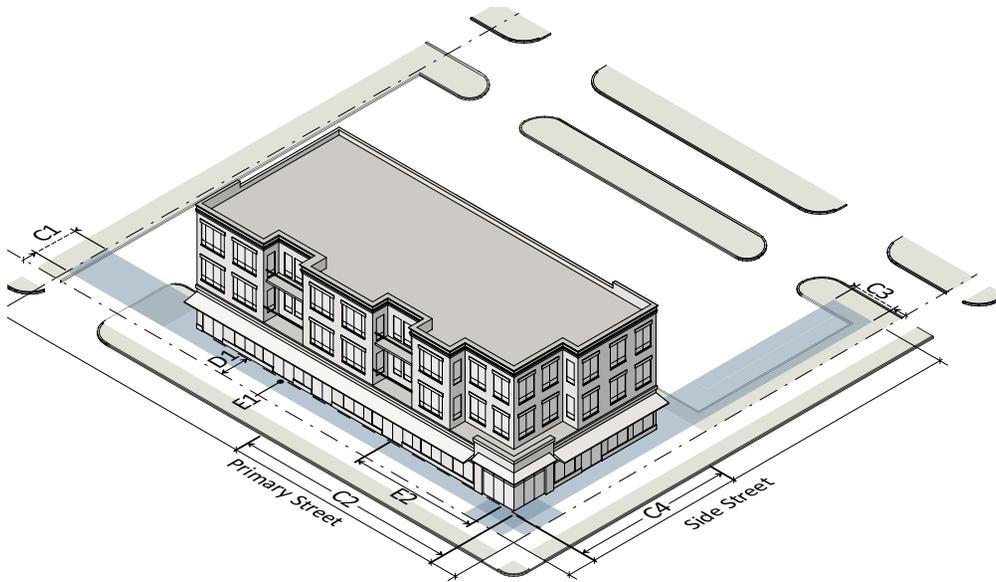
**Sec. 3.4.6. Green (-GR)**



<b>A. Description</b>		
Intended for areas where it is desirable to locate buildings close to the street, but where parking between the building and street is not permitted. Requires a landscaped area between the building and the street right-of-way.		
<b>B. Building Types Allowed</b>		
Townhouse (see Sec. 3.2.3.)	Mixed use building (see Sec. 3.2.6.)	
Apartment (see Sec. 3.2.4.)	Civic building (see Sec. 3.2.7.)	
General building (see Sec. 3.2.5.)	Open lot (see Sec. 3.2.8.)	
<b>C. Build-to</b>		
C1	Primary street build-to (min/max)	20'/50'
C2	Building width in primary build-to (min)	50%
C3	Side street build-to (min/max)	20'/50'
C4	Building width in side build-to (min)	35%
<b>D. Additional Parking Limitations</b>		
D1	Parking setback from primary street (min)	20'
D2	No on-site parking or vehicular surface area permitted between the building and the street	

<b>E. Pedestrian Access</b>		
E1	Primary street-facing entrance required	yes
E2	Street-facing entrance spacing (max)	100'
<b>F. Landscape Yard Encroachments</b>		
F1	Driveways	see Sec. 8.3.5.
F2	Ground signs	see Article 7.3. Signs
F3	Pedestrian access way	
<b>G. Streetscape Requirement</b>		
	Commercial	see Sec. 8.5.2.C.

## Sec. 3.4.7. Urban Limited (-UL)



### A. Description

Intended for areas where parking between the building and street is not allowed. Buildings abut the street and sidewalk but to balance the needs of both the pedestrian and automobile lower street wall continuity is required.

### B. Building Types Allowed

Townhouse (see Sec. 3.2.3.)	Mixed use building (see Sec. 3.2.6.)
Apartment (see Sec. 3.2.4.)	Civic building (see Sec. 3.2.7.)
General building (see Sec. 3.2.5.)	Open lot (see Sec. 3.2.8.)

### C. Build-to

C1	Primary street build-to (min/max)	0'/20'
C2	Building width in primary build-to (min)	50%
C3	Side street build-to (min/max)	0'/20'
C4	Building width in side build-to (min)	25%

### D. Additional Parking Limitations

D1	No on-site parking or vehicular surface area permitted between the building and the street
----	--

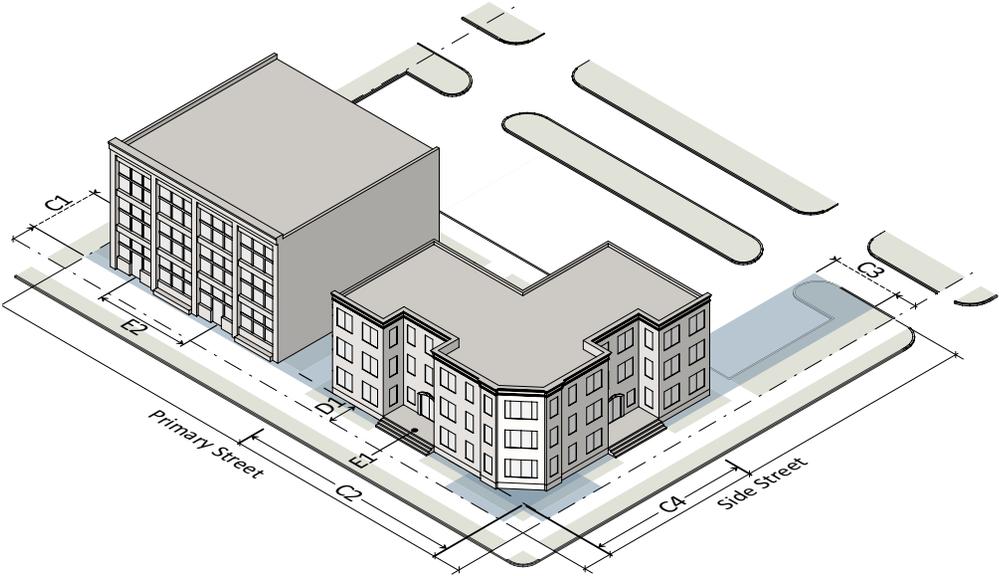
### E. Pedestrian Access

E1	Primary street-facing entrance required	yes
E2	Street-facing entrance spacing (max)	75'

### F. Streetcape Requirement

Main Street; or	see Sec. 8.5.2.A.
Mixed Use.	see Sec. 8.5.2.B.

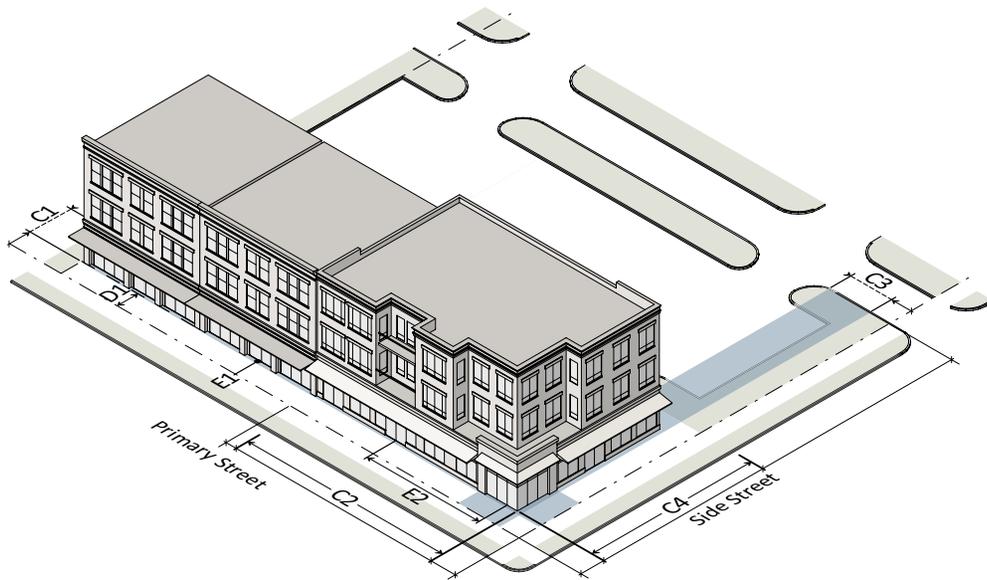
**Sec. 3.4.8. Urban General (-UG)**



<b>A. Description</b>		
Intended for areas where parking between the building and street is not allowed. Buildings abut the street and sidewalk but higher street wall continuity is required than the -UL Frontage.		
<b>B. Building Types Allowed</b>		
Townhouse (see Sec. 3.2.3.)	Mixed use building (see Sec. 3.2.6.)	
Apartment (see Sec. 3.2.4.)	Civic building (see Sec. 3.2.7.)	
General building (see Sec. 3.2.5.)	Open lot (see Sec. 3.2.8.)	
<b>C. Build-to</b>		
C1	Primary street build-to (min/max)	0'/20'
C2	Building width in primary build-to (min)	70%
C3	Side street build-to (min/max)	0'/20'
C4	Building width in side build-to (min)	35%
<b>D. Additional Parking Limitations</b>		
D1	Parking setback from primary street (min)	30'
D2	No on-site parking or vehicular surface area permitted between the building and the street	

<b>E. Pedestrian Access</b>		
E1	Primary street-facing entrance required	yes
E2	Street-facing entrance spacing (max)	75'
<b>F. Streetscape Requirement</b>		
	Main Street; or	see Sec. 8.5.2.A.
	Mixed Use.	see Sec. 8.5.2.B.

## Sec. 3.4.9. Shopfront (-SH)



### A. Description

Intended for areas where the highest level of walkability is desired. The -SH Frontage is intended to create a "main street" type of environment; therefore, mixed use buildings are the primary building type allowed.

### B. Building Types Allowed

Mixed use building (see Sec. 3.2.6.)

Civic building (see Sec. 3.2.7.)

Open lot (see Sec. 3.2.8.)

### C. Build-to

C1	Primary street build-to (min/max)	0'/15'
C2	Building width in primary build-to (min)	80%
C3	Side street build-to (min/max)	0'/15'
C4	Building width in side build-to (min)	40%

### D. Additional Parking Limitations

D1	Parking setback from primary street (min)	30'
D2	No on-site parking or vehicular surface area permitted between the building and the street	

### E. Pedestrian Access

E1	Primary street-facing entrance required	yes
E2	Street-facing entrance spacing (max)	50'

### F. Streetscape Requirement

Main Street	see Sec. 8.5.2.A.
-------------	-------------------

## Article 3.5. Neighborhood Transitions

### Sec. 3.5.1. Applicability

- A. The following neighborhood transition standards apply in the Mixed Use and Campus Districts when the following occurs:
  1. The site immediately abuts a district boundary of an R-1, R-2, R-4 or R-6 district, except where the abutting property contains a civic use; or
  2. The site immediately abuts a district boundary of an R-10 district where the abutting property is vacant or contains an existing detached house or attached house used for residential purposes.
- B. Zone B does not apply to sites 50 feet or less in depth. In such cases, Zone C starts immediately adjacent to the Zone A protective yard.
- C. Zones B and C do not apply to detached house, attached house, townhouse or apartment building types in RX- where 3 stories is the maximum height.

### Sec. 3.5.2. Transition Zones

#### A. Zone A: Protective Yard

##### 1. Intent

Intended to buffer and screen. Consists of vegetative landscaping and wall or fence. No buildings or structures allowed.

##### 2. Location

Immediately abutting district boundary line.

##### 3. Width

Varies (depends on protective yard type applied).

#### B. Zone B: Use Restricted

##### 1. Intent

Intended to be occupied by open areas and low intensity uses, such as surface parking, alleys, landscaping, playgrounds, outdoor dining, community serving buildings and service-related structures.

##### 2. Location

Located between Zone A and Zone C. Zone B starts at the inside edge of the Zone A protective yard (edge furthest from the district boundary line) and ends 50 feet from the district boundary line.

##### 3. Width

50 feet from the district boundary line.

#### C. Zone C. Height and Form

##### 1. Intent

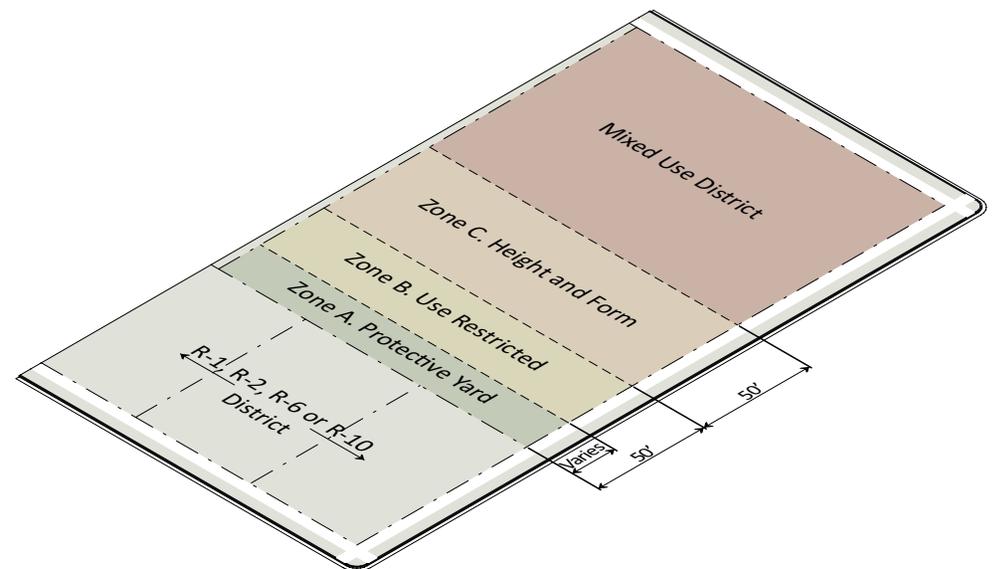
Intended to restrict the height and form of development so as to decrease the impact of new multi-story structures.

##### 2. Location

Located beyond and adjacent to Zone B. Zone C extends from 50 to 100 feet from district boundary line. When Zone B does not exist, Zone C starts at the inside edge of the Zone A protective yard (edge furthest from the district boundary line).

##### 3. Width

50 to 100 feet from the district boundary line. When Zone B does not exist, Zone C extends a maximum of 50 feet from inside edge of the Zone A protective yard (edge furthest from the district boundary line).



## Sec. 3.5.3. Zone A: Protective Yard

### A. Type 1: Narrow (10 feet)

#### 1. Width

A Type 1 protective yard must be an average width of at least 10 feet.

#### 2. Installation Requirements

A Type 1 protective yard must include the following:

- A wall between 6.5 and 9 feet in height;
- Four shade trees per 100 lineal feet;
- Three understory trees per 100 lineal feet; and
- 40 shrubs per 100 lineal feet.

### B. Type 2: Medium (20 feet)

#### 1. Width

A Type 2 protective yard must be an average width of at least 20 feet.

#### 2. Installation Requirements

A Type 2 protective yard must include the following:

- A wall or fence between 6.5 and 9 feet in height;
- Five shade trees per 100 lineal feet;
- Four understory trees per 100 lineal feet; and
- 30 shrubs per 100 lineal feet.

### C. Type 3: Wide (50 feet)

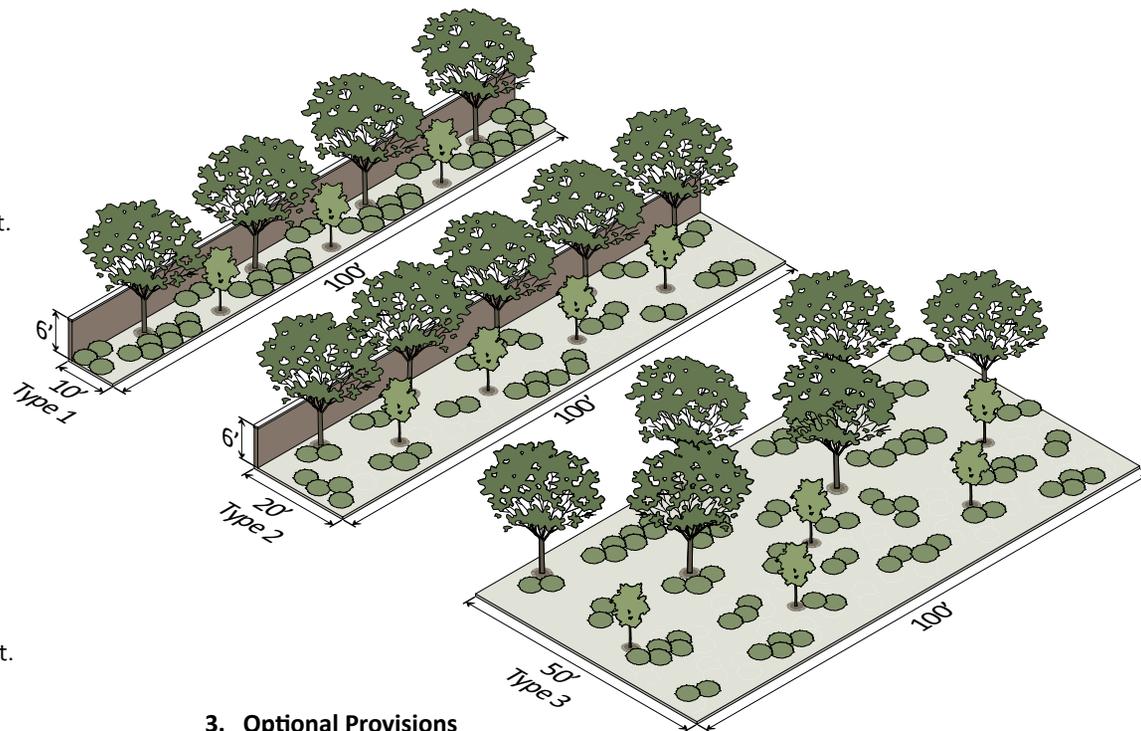
#### 1. Width

A Type 3 protective yard must be an average width of at least 50 feet.

#### 2. Installation Requirements

A Type 3 protective yard must include the following:

- Six shade trees per 100 lineal feet;
- Five understory canopy trees per 100 lineal feet; and
- 60 shrubs per 100 lineal feet.



#### 3. Optional Provisions

- A fence or wall between 6.5 and 8 feet in height may be installed.
- In lieu of planting required shrubs, a berm with a minimum height of 3 feet may be installed.

#### 4. Permitted uses

- Landscaping, fences, walls and berms.
- Swales, underground detention facilities and bioretention facilities. Detention facilities must be located at least 20 feet from the district boundary line. Landscaping quantities specified in Sec. 3.5.3.C.2. above may not be reduced.

### D. Design and Installation

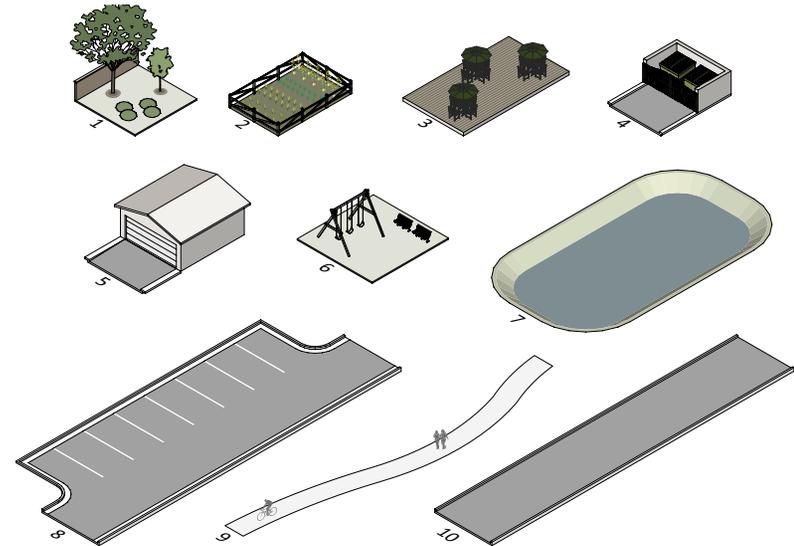
- A required protective yard may be replaced with a tree conservation area that meets the requirements of Article 9.1. Tree Conservation.
- Required landscaping in a protective yard must meet the design and installation requirements of Sec. 7.2.4.

3. In no case shall required landscaping exceed 30% of the total lot area, see *Sec. 7.2.2.D.*
4. Protective yards must meet the location requirements of *Sec. 7.2.4.C.*
5. Fences, walls and berms located in a protective yard must meet the requirements of *Sec. 7.2.4.D.* Fences, walls and berms cannot be located in a protective yard when the protective yard is also a tree conservation area.

### Sec. 3.5.4. Zone B: Use Restrictions

#### A. Permitted Activity

1. Protective yard, landscaping, fence, wall.
2. Garden.
3. Outdoor dining (not between the hours of 10 PM and 6 AM).
4. Service area.
5. Accessory garage, storage area.
6. Park, playground.
7. Stormwater detention.
8. Surface parking lot.
9. Path, walkway, sidewalk.
10. Alley.

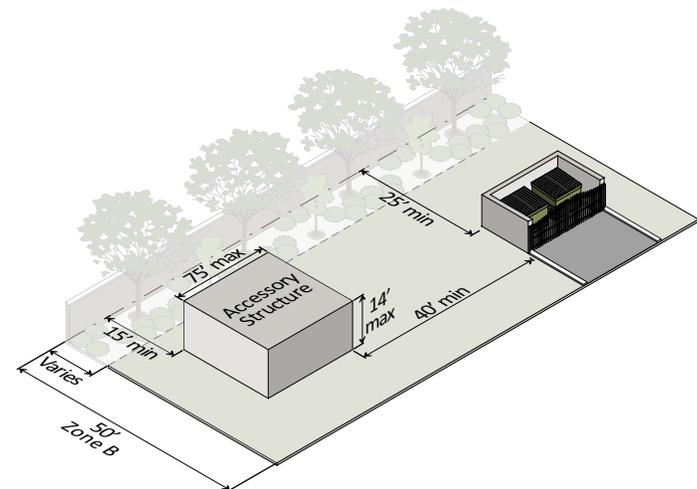


#### B. Civic Building and Accessory Structures

1. An accessory structure can be no more than 14 feet in height and must be located at least 15 feet from the district boundary line.
2. Building walls parallel to the district boundary line can be no longer than 75 feet.
3. Buildings and structures must be spaced apart to maintain views. There must be a minimum of 40 feet between buildings and structures.

#### C. Service Areas

Trash collection, trash compaction, recycling collection and other similar service areas must be located at least 25 feet from the district boundary line.



## Sec. 3.5.5. Zone C: Height and Form

### A. Permitted Activity

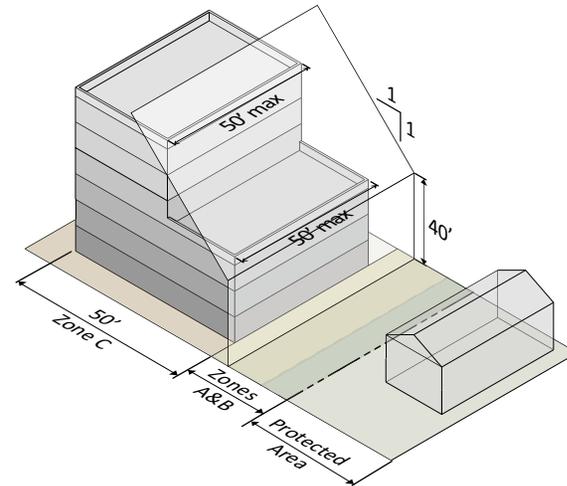
All structures and uses allowed in the zoning district are permitted in Zone C.

### B. Height

1. No building or structure can be more than 40 feet in height at the Zone C line.
2. Height can increase subject to a 45 degree height plane measured from a height of 40 feet at the Zone C line, extending upward one foot for every additional foot of setback into the site.
3. The height plane applies up to 100 feet from the district boundary line.

### C. Wall Articulation

The rear facade of the building that faces the residential property as described in *Sec. 3.5.1.A.* is subject to a maximum blank wall area of 30 feet as calculated in *Sec. 1.5.10.* The blank wall area provisions are not subject to an Administrative Alternate.



# CHAPTER 4. SPECIAL DISTRICTS

<b>Article 4.1. General Provisions</b>	<b>4 – 2</b>	<b>Article 4.6. Campus (CMP)</b>	<b>4 – 10</b>
Sec. 4.1.1. District Intent Statements .....	4 – 2	Sec. 4.6.1. Campus Areas .....	4 – 10
<b>Article 4.2. Conservation Management (CM)</b>	<b>4 – 3</b>	Sec. 4.6.2. Modification of District Standards .....	4 – 10
Sec. 4.2.1. General Provisions .....	4 – 3	Sec. 4.6.3. Application Requirements.....	4 – 11
Sec. 4.2.2. Open Lot .....	4 – 3	Sec. 4.6.4. Master Plan Amendments .....	4 – 11
<b>Article 4.3. Agriculture Productive (AP)</b>	<b>4 – 4</b>	<b>Article 4.7. Planned Development (PD)</b>	<b>4 – 13</b>
Sec. 4.3.1. Detached House .....	4 – 4	Sec. 4.7.1. Establishment of a PD District .....	4 – 13
Sec. 4.3.2. General Building .....	4 – 5	Sec. 4.7.2. Modification of Standards.....	4 – 13
<b>Article 4.4. Heavy Industrial (IH)</b>	<b>4 – 6</b>	Sec. 4.7.3. Allowed Sign Modifications .....	4 – 13
Sec. 4.4.1. General Building .....	4 – 6	Sec. 4.7.4. Application Requirements.....	4 – 14
<b>Article 4.5. Manufactured Housing (MH)</b>	<b>4 – 7</b>	Sec. 4.7.5. General Design Principles .....	4 – 15
Sec. 4.5.1. Site Size, Residential Density and Land Use .....	4 – 7	Sec. 4.7.6. Master Plan Amendments.....	4 – 15
Sec. 4.5.2. Site Development Standards .....	4 – 7		
Sec. 4.5.3. Manufactured Home Space Standards .....	4 – 8		

## Article 4.1. General Provisions

### Sec. 4.1.1. District Intent Statements

#### A. Conservation Management (CM)

1. The CM District is intended to preserve and enhance land as permanent open space to meet the passive and recreational needs of the City.
2. All property within the district must be predominately unoccupied by buildings or other impervious surfaces.

#### B. Agriculture Productive (AP)

1. The AP District is intended to conserve agricultural land and undeveloped natural amenities while preventing the encroachment of incompatible land uses on farm land and other undeveloped areas.
2. The types, area and intensity of land uses in an AP District are designed to encourage and protect agricultural uses and the conservation of undeveloped areas.

#### C. Heavy Industrial (IH)

The IH District is intended to accommodate high-impact manufacturing, industrial or other uses, including extractive and waste-related uses, which are not properly associated with or are not compatible with nearby Residential, Mixed Use or Special Districts.

#### D. Manufactured Housing (MH)

1. The MH District permits manufactured homes in manufactured home parks and manufactured home subdivisions.
2. The MH District is intended to provide a suitable living environment in manufactured home developments and to ensure the compatibility of such developments with adjacent property.

#### E. Campus (CMP)

1. The CMP District is established to allow for growth and development of colleges and universities and other campus-like uses such as hospitals while protecting the larger community, nearby neighborhoods and the environment from impacts accompanying major new development.
2. The CMP District allows for flexible placement of buildings, and unified treatment of signs, open space, landscaping and other site elements that may be recognized through a master plan.
3. Retail, restaurant and commercial uses are allowed, such uses are intended primarily for the convenience of employees or users of the district.
4. Development is encouraged to reduce auto use, mitigate environmental impacts, conserve energy resources and achieve visual continuity in the siting and scale of buildings.

#### F. Planned Development (PD)

1. The PD District is intended as a relief mechanism from the prescriptive standards of a general use zoning district.
2. The PD District intended to be used to achieve a higher quality of project design than could be accomplished through the strict application of a general use district or set of general use districts, without adversely impacting the adequate facilities required to serve the property and surrounding area.

## Article 4.2. Conservation Management (CM)

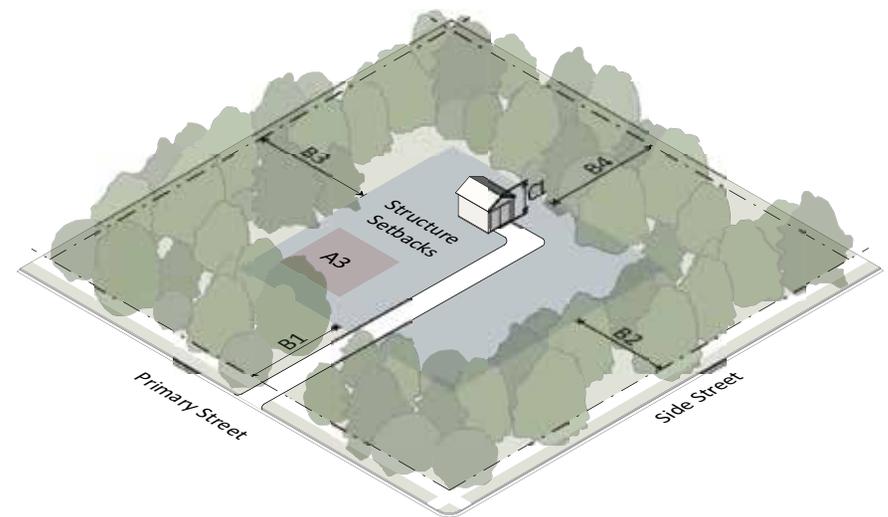
### Sec. 4.2.1. General Provisions

- A. Prior to the approval of any subdivision plan or site plan on a site 2 acres or greater in size, whichever occurs first, the property owner shall delineate a minimum of 30% of CM-zoned land as primary tree conservation area.
- B. The remaining 70% of the CM-zoned land not in a tree conservation area may either be developed pursuant to this section or part or all of the remaining 70% may, at the election of the owner, be established as primary tree conservation area.
- C. All CM-zoned primary tree conservation areas shall have tree cover by either preserving existing trees with a basal area of at least 30 square feet per acre as determined by increments of 50 feet in length, or if such trees are not present, shall be planted with shade trees in accordance with Sec. 9.1.10.
- D. Watercourse buffers under Sec. 9.2.3. must be established along all primary and secondary watercourses.

### Sec. 4.2.2. Open Lot

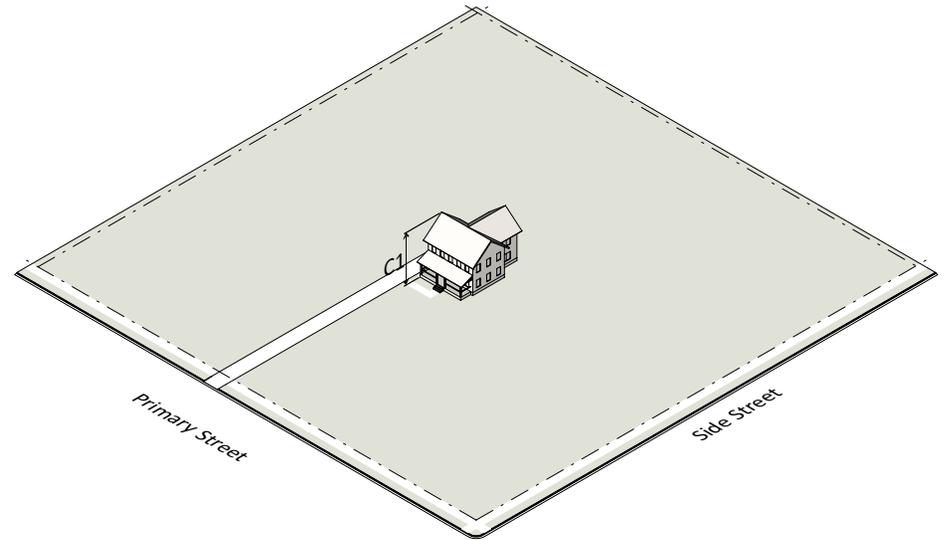
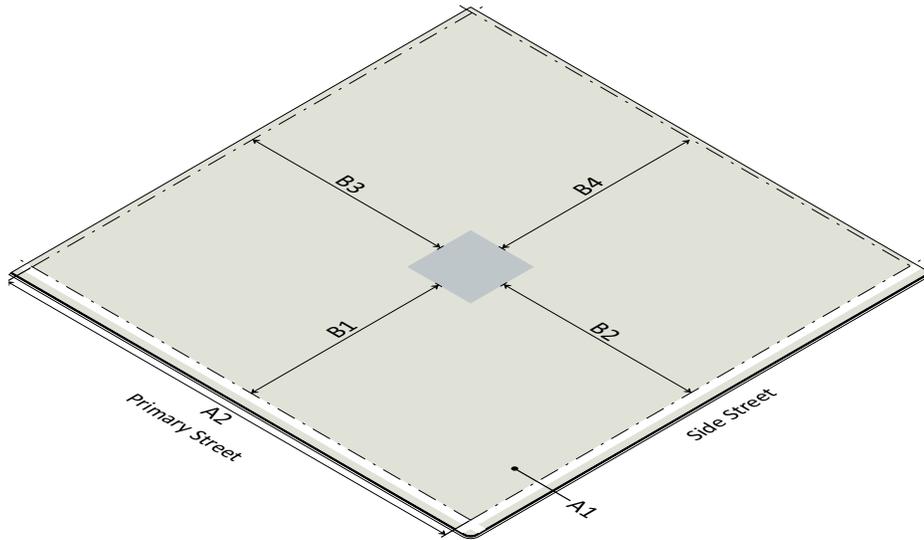
		CM
<b>A. Lot Dimensions</b>		
A1	Area (min)	n/a
A2	Width (min)	n/a
A3	Building coverage (max)	5%
<b>B. Protective Yard</b>		
B1	From primary street (min)	50'
B2	From side street (min)	50'
B3	From side lot line (min)	50'
B4	From rear lot line (min)	50'
A primary street, side street or rear lot line that adjoins any street must comply with the planting requirements for a SHOD-1 under Sec. 5.3.1.F.		
<b>C. Height</b>		
C1	All buildings/structures (max)	40'/3 stories
<b>D. Allowed Building Elements</b>		
Porch, stoop		
Balcony		
Gallery, awning		

See Sec. 1.5.11. for specific building element requirements.



## Article 4.3. Agriculture Productive (AP)

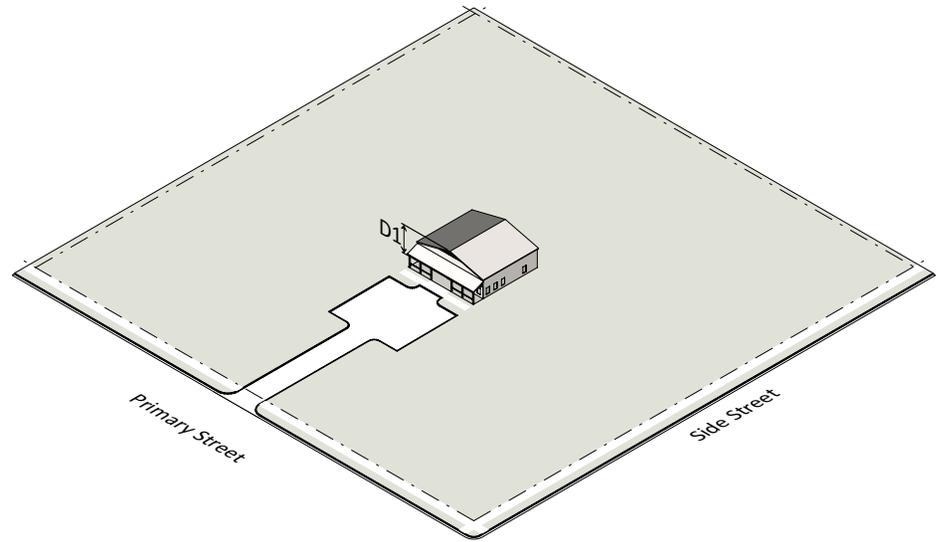
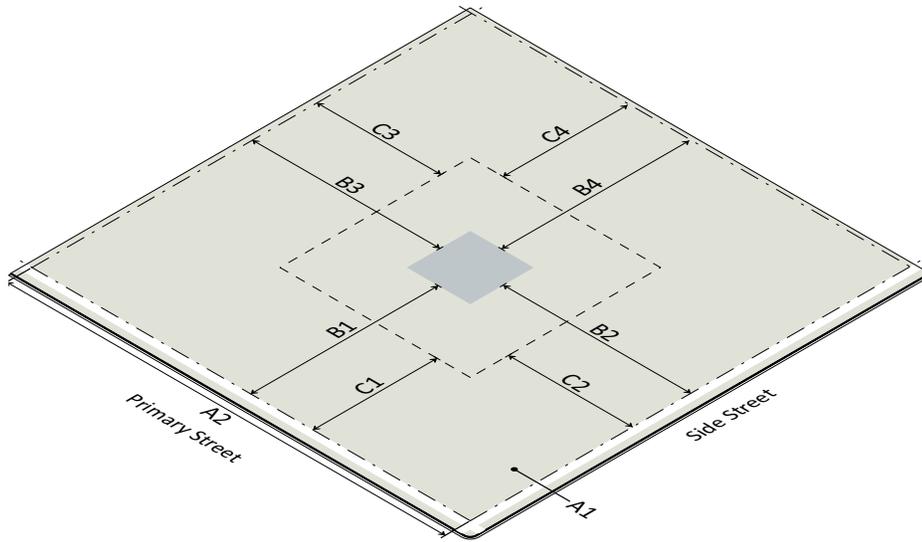
### Sec. 4.3.1. Detached House



AP	
<b>A. Lot Dimensions</b>	
A1 Area (min)	125,000 sf
A2 Width (min)	350'
A3 Density (max)	1 unit per agriculture tract
<b>B. Building/Structure Setbacks</b>	
B1 From primary street (min)	150'
B2 From side street (min)	150'
B3 From side lot line (min)	150'
B4 From rear lot line (min)	150'

AP	
<b>C. Height</b>	
C1 All structures (max)	40'/3 stories
<b>D. Allowed Building Elements</b>	
Porch, stoop	
Balcony	
See Sec. 1.5.11. for specific building element requirements.	

**Sec. 4.3.2. General Building**

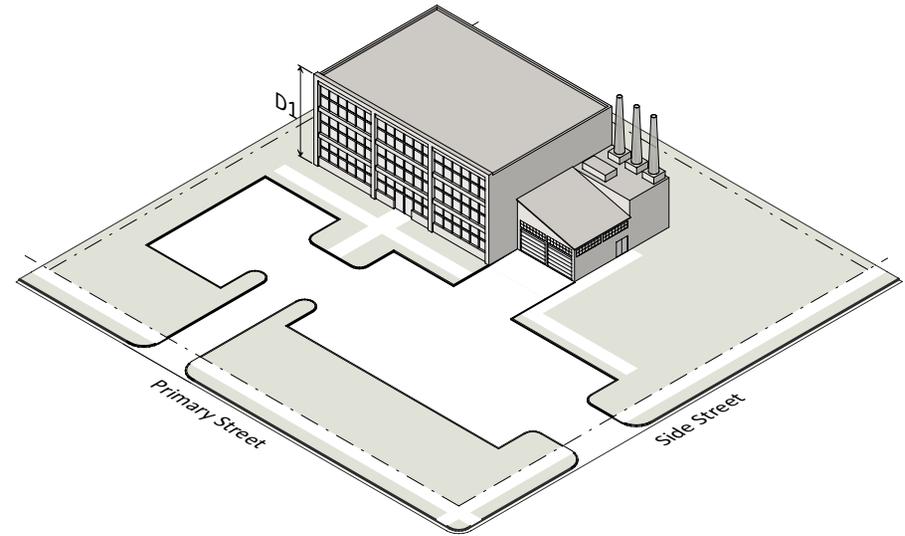
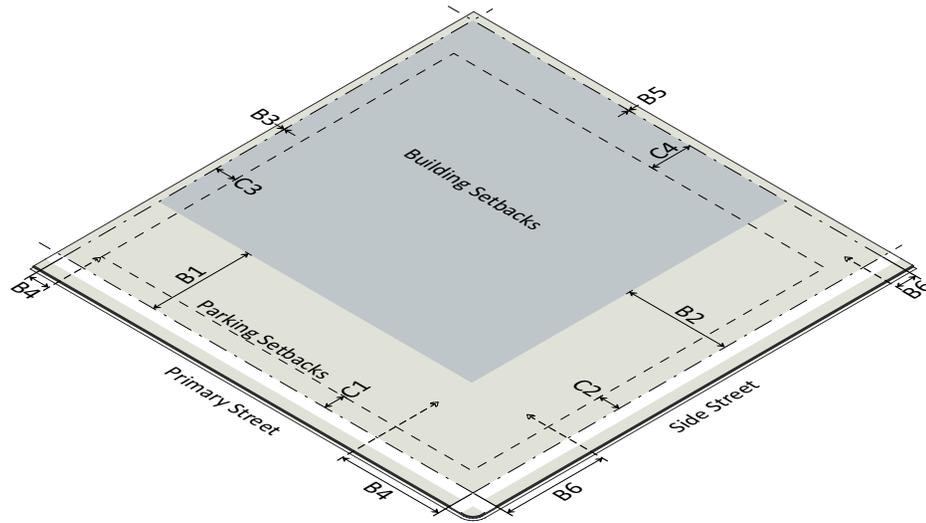


AP		
<b>A. Lot Dimensions</b>		
A1	Area (min)	100,000 sf
A2	Width (min)	350'
<b>B. Building/Structure Setbacks</b>		
B1	From primary street (min)	150'
B2	From side street (min)	150'
B3	From side lot line (min)	150'
B4	From rear lot line (min)	150'
<b>C. Parking Setbacks</b>		
C1	From primary street (min)	100'
C2	From side street (min)	100'
C3	From side lot line (min)	100'
C4	From rear lot line (min)	100'

AP		
<b>D. Height</b>		
D1	All structures (max)	40'/3 stories
<b>E. Allowed Building Elements</b>		
	Balcony	
	Gallery, awning	
See Sec. 1.5.11. for specific building element requirements.		

## Article 4.4. Heavy Industrial (IH)

### Sec. 4.4.1. General Building



		IH
<b>A. Lot Dimensions</b>		
A1	Area (min)	n/a
A2	Width (min)	n/a
<b>B. Building/Structure Setbacks</b>		
B1	From primary street (min)	50'
B2	From side street (min)	50'
B3	From side lot line (min)	0'
B4	Sum of side interior setbacks (min)	40'
B5	From rear lot line (min)	0'
B6	Sum of rear and primary street setbacks (min)	70'
<b>C. Parking Setbacks</b>		
C1	From primary street (min)	10'
C2	From side street (min)	10'
C3	From side lot line (min)	10'
C4	From rear lot line (min)	10'

		IH
<b>D. Height</b>		
D1	All structures (max)	50' / 3 stories
<b>E. Allowed Building Elements</b>		
Balcony		
Gallery, awning		
See <i>Sec. 1.5.11.</i> for specific building element requirements.		
<b>F. Protective Yards</b>		
A Type B1 or B2 transitional protective yard (see <i>Sec. 7.2.4.A.</i> ) must be established where an IH District abuts any other district other than another IH District.		
A Type C1 or C2 street protective yard (see <i>Sec. 7.2.4.B.</i> ) must be established along all property lines abutting a public right-of-way.		

## Article 4.5. Manufactured Housing (MH)

### Sec. 4.5.1. Site Size, Residential Density and Land Use

- A. A manufactured home development must be at least 10 acres in size and be devoted to one or more of the following uses:
  - 1. Leasing of space for manufactured homes;
  - 2. Manufactured homes for rent or sale for use within the manufactured home development, provided that the sold manufactured home is connected to on-site utilities and the manufactured home remains on the site for a minimum of 1 year; and
  - 3. Unit ownership (condominium) pursuant to N.C. Gen. Stat. §47C.
- B. A manufactured home development may not exceed a density of 6 units per acre.
- C. A manufactured home development may contain accessory uses under *Article 6.7. Accessory Uses & Structures*.

### Sec. 4.5.2. Site Development Standards

#### A. Phasing

Every manufactured home development must contain at least 10 manufactured home spaces in each phase.

#### B. Streets, Sidewalks and Protective Yards

- 1. All manufactured home spaces and lots must front a street meeting the requirements of *Article 8.4. New Streets* or *Article 8.5. Existing Streets*
- 2. Sidewalks must provide pedestrian access within the development served and connect with public sidewalks, public streets and greenway access points.
- 3. A Type B<sub>1</sub> or B<sub>2</sub> transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all perimeter property lines.
- 4. A Type C<sub>1</sub> or C<sub>2</sub> street protective yard (see *Sec. 7.2.4.B.*) must be established along all property lines abutting a public right-of-way.

### C. Open Space Standards

#### 1. Minimum Acreage Required

- a. The required minimum outdoor open space provided for a manufactured home development shall be the greater of either:
  - i. 10% of the land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way; or
  - ii. 435.6 square feet per unit.
- b. Required minimum open space may be conveyed to the government, and if accepted, without reimbursement as part of a greenway easement.
- c. No off-street parking, drives or buildings shall be located in the open space, except when required to serve recreation facilities located within the open space (See *Sec. 6.7.3.G.*)

#### 2. Open Space Configuration

- a. With the exception of parks and greenways dedicated to the City, the minimum average open space quotient may not be less than 75 feet. The minimum open space quotient shall be calculated by dividing the square footage of open space used to comply with this requirement by  $\frac{1}{4}$  of the linear footage of its periphery.
- b. A minimum of  $\frac{1}{3}$  or 2 acres, whichever is less, of the required open space must be in 1 continuous part with a maximum average slope of 8% or less.

#### 3. Location

- a. The required open space must be contiguous to the manufactured home development.
- b. In the event that a manufactured home development is divided by a Thoroughfare, the amount of required open space for the tracts created by the Thoroughfare shall be allotted to those tracts in the same proportion as the units approved to be located on each tract.

#### D. Grading and Drainage Plan

1. A grading and drainage plan allowing positive drainage away from the manufactured home pad shall be approved by the City prior to any grading around any manufactured home pad.
2. The surface of each manufactured home space shall have a manufactured home stand or pad graded for proper drainage and shall be covered by a paved slab or compacted earth, gravel or crushed stone adequate to meet Building Code requirements for foundation footings for manufactured homes. The remainder of the space shall be graded for drainage and graded areas grassed or otherwise provided with protective cover to prevent erosion.

#### E. Clearing of Drainage Ways

During the construction, preparation, arrangement and installation of improvements and facilities in a manufactured home development, the stream bed of each stream, creek or backwash channel located within the manufactured home development shall be maintained in an unobstructed state and the channel and banks of the stream shall be kept free of all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or dams for water impoundments shall not be construed as obstructions in the stream.

#### F. Floodplain Evacuation Plan

An evacuation plan must be filed with the Wake County Office of Emergency Preparedness indicating alternative vehicular access and escape routes from manufactured home developments located within floodprone areas.

#### G. Utilities and Sanitary Services

All utility installations shall comply with applicable codes of the City, Wake County and the State of North Carolina, and the requirements of the North Carolina Utilities Commission.

1. Each manufactured home space shall be connected to all utilities provided including water and sanitary sewer.
2. Each manufactured home development shall connect to the City water system, and either the City sewer system if available or a community sewer

system. All sewage wastes from each manufactured home development including wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets and water-using appliances not mentioned here shall be piped into the manufactured home development sewage disposal system or City utility system.

### Sec. 4.5.3. Manufactured Home Space Standards

#### A. Minimum Lot Size

The required minimum lot area is 7,260 square feet per unit.

#### B. Height

No building or structure may exceed a height of 40 feet.

#### C. Setbacks

##### 1. Manufactured Home

Each manufactured home shall comply with the following setbacks.

- a. Primary street and side setback: 20 feet minimum.
- b. Interior side setback: 5 feet minimum.
- c. Rear setback: 20 feet minimum.
- d. Building to building separation may be no less than 20 feet.

##### 2. Other Buildings and Uses

Buildings and uses located in a manufactured home development, other than manufactured homes, shall not locate within 30 feet of a manufactured home or 20 feet of a street right-of-way, or within 5 feet of a side or rear property line.

#### D. Skirting

1. Foundation skirting shall be installed around all sides of a manufactured home and shall be uninterrupted except for required ventilation and access.
2. Foundation skirting shall consist of brick, stone, siding material consistent with the siding material used on the structure or any rigid weatherproof material providing a solid barrier between the underside of the manufactured home and the stand.

## E. Accessory Structures

1. A detached accessory structure, including but not limited to a storage shed, storage tank, greenhouse or gazebo, can be no larger than 100 square feet in size and can be located no closer than 10 feet to a manufactured home located on the same lot.
2. No detached accessory structure may be located within 10 feet of any other structure, including other manufactured homes.
3. Open structures, including but not limited to a deck, porch, stairway or any noncombustible awning, eave or carport, that exceed 3½ feet in height shall not be located within 10 feet of another manufactured home or 10 feet of another open structure associated with another manufactured home.
4. Garages may not exceed 300 square feet in size and may not be located within 20 feet of any manufactured home or 10 feet of an open structure associated with another manufactured home. Garage and carport placement must comply with the standards of *Sec. 1.5.12*.
5. No structure that exceeds 3½ feet in height is allowed to be located in the space between the manufactured home and the public right-of-way or private street.
6. The allowed building elements for a manufactured home are a porch or stoop in accordance with *Sec. 1.5.11*.

## F. Unit Numbering

Unit numbers for each manufactured home shall be installed in accordance with *Sec. 7.3.13.K*.

## Article 4.6. Campus (CMP)

### Sec. 4.6.1. Campus Areas

#### A. Single Entity

1. Each CMP District must be under the control of a single entity and have a significant governmental interest or be a hospital, college or university.
2. Each CMP District must either have a minimum site area of 5 acres or one or more contiguous city blocks.
3. In the event that a portion of the property zoned CMP is sold to a third-party who is not governmental or a hospital, college or university (therefore becoming non-compliant with this Article), the non-compliant property must be rezoned. The third-party property owner shall submit a petition to rezone the property not owned by a governmental interest or a hospital, college or university within 6 months of the sale of the property.

#### B. District Dimensional Standards

The controlling entity must follow the district standards below.

1. Building height: 50 feet or 3 stories maximum.
2. Primary street setback: 5 feet minimum.
3. Side street setback: 5 feet minimum.
4. Interior side or rear setback: 10 feet minimum.

#### C. Neighborhood Transitions

Neighborhood transitions under *Article 3.5. Neighborhood Transitions* apply to a CMP District.

### Sec. 4.6.2. Modification of District Standards

#### A. Master Plan Required

The CMP District standards may be modified through City Council approval of a CMP Master Plan under *Sec. 10.2.4*. A CMP Master Plan allows modification of the district dimensional standards above and the following elements:

#### B. Height

1. A CMP Master Plan may include one or more of the following height designations. The designations establish the maximum height of buildings and structures in stories and feet within the district. For example, CMP-7 has a maximum height limit of 7 stories or 90 feet.
  - 3 3 stories / 50 feet max
  - 4 4 stories / 62 feet max
  - 5 5 stories / 75 feet max
  - 7 7 stories / 90 feet max
  - 12 12 stories / 150 feet max
  - 20 20 stories / 250 feet max
  - 40 40 stories / 500 feet max
2. Height on the edges of the CMP District should be compatible with adjacent development, and consider existing built patterns, mass, scale and character.

#### C. General Development Standards

A CMP Master Plan may modify the following requirements of *Chapter 7. General Development Standards*:

1. *Article 7.1. Parking*. The entire campus may be treated as a single development for the purposes of calculating and sharing required parking.
2. *Article 7.2. Landscaping and Screening*.
3. *Article 7.3. Signs*.
4. *Article 7.4. Site Lighting*.
5. *Article 7.5. Outdoor Display and Storage*.

#### D. Street and Blocks

A CMP Master Plan may modify the following requirements of *Chapter 8. Subdivision & Site Plan Standards*:

1. *Article 8.3. Blocks, Lots, Access*.
2. *Article 8.4. New Streets*.
3. *Article 8.5. Existing Streets*.

### Sec. 4.6.3. Application Requirements

- A. In addition to a rezoning application, a CMP Master Plan application must include the following required elements. More than one required element may be combined onto a single map/plan sheet so long as legibility is not adversely impacted.
1. Vicinity Map.
  2. Existing Conditions Map.
  3. Street and Block Plan.
  4. General Layout Map delineating the boundaries of all district boundaries including Height and Frontage designations (if any). In lieu of designating Frontages on the General Layout Map, a more fine-grained map may be included that specifies the maximum and minimum building setback lines for all structures and parking areas.
  5. Development Plan showing the proposed location of buildings.
  6. Pedestrian Circulation Plan.
  7. Parking Plan.
  8. Open Space Plan.
  9. Tree Conservation Area Plan.
  10. Major Utilities Plan.
  11. Generalized Stormwater Plan.
  12. Phasing Plan, if more than one phase is contemplated.
  13. An illustrative 3-dimensional model or rendering that shows building elevations, location of streets and prominent site features. The 3-dimensional model must illustrate the potential massing and scale of the proposed development, but will not be regulatory.
  14. Common Signage Plan (see *Sec. 7.3.16.H.*).
- B. Each application must also include the following.
1. The specific standards intended to be modified as part the approval process. If a standard is not listed as being modified, then the standard is considered applicable and must be adhered to. However, subsequent requests for alternative compliance and variances may still be submitted.
  2. The proposed maximum number of dwelling units by block.

3. The proposed maximum square footage of nonresidential floor area by block.
4. A general description of how the CMP District conforms with the Comprehensive Plan.
5. A general description of how the CMP District meets the intent of *Sec. 4.1.1.E.*

### Sec. 4.6.4. Master Plan Amendments

Any amendment to an approved CMP Master Plan shall follow the procedures below.

#### A. Administrative Amendments

The Planning and Development Officer shall administratively approve CMP Master Plan amendments that propose any of the following alterations.

1. An increase or decrease to the allowable residential density, total number of dwelling units not to exceed 10%.
2. An increase or decrease to the minimum required nonresidential square footage or maximum permitted nonresidential square footage, not to exceed 10%.
3. An increase to allowable height (as measured in feet), provided the increase does not exceed the maximum number of feet permitted by story in the height categories contained within *Article 3.3. Height Requirements*. The Planning and Development Officer may not administratively approve an increase in number of stories as specified in the Master Plan.
4. A transfer of nonresidential floor area or residential dwelling units, from one area to another, not to exceed a 20% maximum for each standard.
5. Minor adjustments in location of building, parking, recreation or sporting facilities and open space areas. A minor adjustment shall be a modification in orientation or distance to property line; however, the adjustment shall not exceed 100 feet in distance from the approved location, and shall not be located any closer than 50 feet to the boundary of the CMP District. However, where a building or parking area is shown on the approved Master Plan within 50 feet of a property line, the building or parking area adjustment may not be located any closer to the property line than as shown on the approved Master Plan. An adjustment to the location of transit facilities is permitted, provided the adjustment occurs prior to the recordation of the transit easement.

6. An exchange of open space area, provided the exchanged properties are of like acreage, value and utility and that no tree conservation area or Open Space Plan has been recorded for the requested exchanged properties with the register of deeds office in the county where the property is located.
7. An exchange of above ground stormwater control facilities of like size. The Planning and Development Officer may not administratively approve the relocation of an above ground stormwater facility to a location closer than 50 feet from the boundary of the CMP District boundary.
8. A relocation of access points, driveways or sidewalks either within or outside of the public right-of-way with the concurrence of the Transportation Division.
9. A relocation of a fence, wall, sign or utility. Fences or walls required for transition areas or buffer yards may not be removed or relocated to an area that conflicts with the buffering requirement.
10. Any requirement associated with a permitted change must be shown on the Master Plan. By example, if a 10% increase in density requires a different street cross-section, the street cross-section must be updated on the Street and Block Plan.

#### **B. Non-Administrative Amendments**

Any other amendment not listed in *Sec. 4.6.4.A.* shall be subject to the rezoning process specified in *Sec. 10.2.4.*

#### **C. Committed Elements**

Where a CMP Master Plan specifies certain committed timed elements, the applicant may request an extension for up to 1 year, to be granted by the Planning and Development Officer provided development within the Master Plan or in the vicinity has not created the need for the committed timed elements.

## Article 4.7. Planned Development (PD)

### Sec. 4.7.1. Establishment of a PD District

A PD District is a customized general use zoning district or set of general use zoning districts that must be approved along with a Planned Development Master Plan in accordance with *Sec. 10.2.4.*

### Sec. 4.7.2. Modification of Standards

- A. Except as noted in this Article, development in a PD District must conform to all applicable provisions of this UDO.
- B. The PD District allows modification of the following, as approved by the City Council under *Sec. 10.2.4.:*
  1. *Chapter 2. Residential Districts;*
  2. *Chapter 3. Mixed Use Districts;*
  3. *Chapter 6. Use Regulations;*
  4. *Chapter 7. General Development Standards;*
  5. *Article 8.3. Blocks, Lots, Access;*
  6. *Article 8.4. New Streets;* and
  7. *Article 8.5. Existing Streets.*
- C. A PD district may be of any size. A PD District that specifies a single structure must include a mixed use building type. A PD District that includes multiple buildings must include at least one of the following building types: townhouse, apartment, mixed-use building or a general building. For a PD District with multiple buildings, at least 2 building types must be included in the first phase of development.
- D. Proposed density modifications in the districts that permit residential uses may propose lower maximum densities than the district currently allows, but cannot propose densities that exceed the district maximum.
- E. Proposed use changes may remove a use or convert a permitted or limited use to a special use, or convert a permitted use to a limited use, but cannot allow a prohibited use, make a special use a permitted or limited use or make a limited use a permitted use.
- F. Proposed modifications to the street cross-sections within *Article 8.4. New Streets* may only be requested for Sensitive, Local and Mixed Use Streets. Major

Streets, Industrial and Service Streets and Accessways may not be modified or altered. The approval of alternative street cross-sections and minimum block length standards may not cause the Level of Service to fall below Level of Service D (LOS "D").

- G. Each Planned Development is required to provide at least 10% of the gross site area as open space. This open space shall adhere to *Sec. 2.5.*

### Sec. 4.7.3. Allowed Sign Modifications

Within a PD District, the requirements of *Article 7.3. Signs* may be modified according to an approved common signage plan developed as part of the Master Plan. No modification shall be allowed until all of the following are met.

- A. A common signage plan under *Sec. 7.3.16.H.* is provided.
- B. In lieu of the maximum signage area for ground signs as set forth in *Article 7.3. Signs*, the Master Plan may allow up to 75 square feet of ground signage per 200 feet of street frontage adjoining any nonresidential or mixed use area identified on the Master Plan.
- C. There is no minimum setback requirement for buildings and structures to have a ground sign.
- D. No ground sign shall exceed 15 feet in height.
- E. No ground sign shall exceed 100 square feet in sign area.
- F. All ground signs shall comply with of *Sec. 7.3.16.* and limitations on lines of copy and miscellaneous provisions of *Sec. 7.3.11.*
- G. No premise shall exceed the maximum signage allowed for each premise by *Sec. 7.3.16.B.*
- H. For awning, marquee and canopy signs; directory signs; product and information signs; projecting signs; tract identification signs; wall signs; and windblown signs, the height, sign size and the total sign area may be modified provided that:
  1. The modification is specified in the sign criteria;
  2. No maximum sign area, size or height may be increased over 100% from the maximums established in *Article 7.3. Signs* for that sign type; and
  3. The amount of allowable signage shall be transferred from allowable ground signage as set forth in *Sec. 4.7.3.B.*, and this transfer shall be the exclusive amount of allowable signage.

- I. Signage located within 100 feet of the perimeter of the PD District shall comply with all the provisions of *Article 7.3. Signs*.
- J. For PD Districts 5 acres or more in size, a Low or Medium Profile Ground Sign not exceeding 10 feet may be specified in the approved Master Plan.
- K. Permits for signs shall only be issued to 1 entity who is responsible for allocating signage to each premise. This entity shall keep an inventory of all existing signage and submit it to the City with each permit.
- L. If any amendment is made to the common signage plan, all existing signs that do not comply with the new sign criteria shall be removed within 30 days of approval of such amendment.
- M. Public street signs are allowed to have non-standard supports if a written agreement is submitted to and approved by the City. The agreement shall state that:
  1. Damaged signs shall be replaced by the property owners association within 5 days of being damaged or the City will replace them with standard signs and supports;
  2. The cost of replacement shall be borne by the property owners association; and
  3. The property owners association shall assume sole responsibility for any loss, injury or death or damage resulting from such use of non-standard supports and shall maintain insurance and agreement to indemnify the City, its officers, council members and employees.

#### Sec. 4.7.4. Application Requirements

- A. In addition to a rezoning application, a PD Master Plan Application must include the following required elements. More than one required element may be combined onto a single map/plan sheet so long as legibility is not adversely impacted.
  1. Vicinity Map.
  2. Existing Conditions Map.
  3. Street and Block Plan.
  4. General Layout Map delineating the boundaries of all general and overlay zoning district boundaries including Height and Frontage designations (if any).

5. In lieu of designating Height and Frontages on the General Layout Map, a Detailed Layout Map may be included that specifies the maximum and minimum building heights, maximum and minimum building setback lines for all structures and parking areas, and locations of nonresidential land uses.
  6. Description of modifications to general district use regulations made in accordance with *Sec. 4.7.2.E*.
  7. Development Plan showing the location of proposed building types.
  8. Pedestrian Circulation Plan.
  9. Parking Plan.
  10. Open Space Plan.
  11. Tree Conservation Area Plan, if the site is 2 acres in size or larger.
  12. Major Utilities Plan.
  13. Generalized Stormwater Plan.
  14. Phasing Plan, if more than one phase is contemplated.
  15. If residential lots to be created are less than 4,000 square feet in size, a Utility Service Plan shall be required.
  16. An illustrative 3-dimensional model or rendering that shows building elevations, location of streets and prominent site features. The 3-dimensional model must illustrate the potential massing and scale of the proposed development, but will not be regulatory.
  17. Common Signage Plan (see *Sec. 7.3.16.H*.)
- B. Each application must also include the following.
    1. The specific standards intended to be modified as part of the approval process. If a standard of this UDO is not listed as being modified, then the standard is considered applicable and must be adhered to. However, subsequent requests for alternative compliance and variances may still be submitted.
    2. The proposed maximum number of dwelling units by building type for each PD subdistrict.
    3. The proposed maximum square footage of nonresidential floor area by building type for each PD subdistrict.

4. For all Master Plans that include a Mixed Use District, a general description of how the PD District conforms with the Urban Design Guidelines for Mixed Use Developments in the Comprehensive Plan and the General Design Principles for PD Districts listed in *Sec. 4.7.5*.
  5. A general description of how the PD District conforms with the Comprehensive Plan.
  6. A description of how the PD District meets the intent of *Sec. 4.1.1.F*.
- C. In lieu of the establishment of a property owners' association, if a unit of government or its institutions owns all of the land in the Planned Development District, it may contract with the City of Raleigh to be fully responsible for the maintenance, repair and replacement of open space areas, private drives and walkways, private utility lines located outside City of Raleigh utility easements or public street rights of way, stormwater control facilities and any other shared facility not conveyed to the City which serves more than one lot in a Planned Development District.
  - D. The open space shall be available to all persons within the development. This contract shall further provide that if any portion of the Planned Development District is sold to a non-governmental entity without first establishing a property owners' association, the property shall automatically and without further public hearing be rezoned to the zoning district(s) which preceded the establishment of the Planned Development District.
  - E. A memorandum of this contract describing the property and the provisions of the contract shall be recorded with the local county register of deeds office. All documents required herein shall be submitted prior to the recording of any plats or issuance of any construction permit in those instances where the property is already subdivided.

### **Sec. 4.7.5. General Design Principles**

If applicable, the following general design principles will be considered when reviewing an application for a PD District.

- A. When at least 20 residential units are proposed, the project includes a variety of housing stock that serves a range of incomes and age groups, and may include detached houses, attached houses, townhouses, apartments and dwelling units above first floor commercial spaces.
- B. Uses are compact and well-integrated, rather than widely separated and buffered.

- C. Compatibility among different uses is achieved through effective site planning and architectural design.
- D. A variety of business types are accommodated, from retail and professional offices to live-work. Office uses vary from space for home occupations to conventional office buildings. Retail uses range from corner stores to larger format supermarkets.
- E. Special sites, such as those at a terminated vista, are reserved for public or civic buildings and spaces that serve as symbols of the community, enhancing community identity.
- F. The project includes a variety of street types designed to be accessible to the pedestrian, bicycle and automobile. Streets are connected in a way that encourages walking and reduces the number and length of automobile trips.
- G. Bicycle circulation is accommodated on streets and on dedicated bicycle paths, greenways or trails with adequate bicycle parking facilities being provided at appropriate locations.
- H. Building facades spatially delineate the streets and civic spaces, and mask parking lots.
- I. Architecture and landscape design are based on the local climate, topography, history and building practice.
- J. The project includes open space as a significant element of the project's design. Formal and informal, active and passive open spaces are included. Open spaces may include, but are not limited to, squares, plazas, greens, preserves, farmers markets, greenways and parks.
- K. The project is compatibly integrated into established adjacent areas, and considers existing development patterns, scale and use.
- L. The project is a clearly identifiable or legible place with a unique character or unique tradition.
- M. Public art, including but not limited to, monuments, sculpture and water features, is encouraged.
- N. Entertainment facilities, including but not limited to, live music venues and theatres, are encouraged.

### **Sec. 4.7.6. Master Plan Amendments**

Any amendment to an approved PD Master Plan, including those approved prior to September 1, 2013, shall follow the procedures below.

### A. Administrative Amendments

The Planning and Development Officer shall administratively approve PD Master Plan amendments that propose any of the following alterations.

1. An increase or decrease to the allowable residential density, total number of dwelling units not to exceed 10%.
2. An increase or decrease to the minimum required nonresidential square footage or maximum permitted nonresidential square footage, not to exceed 10%.
3. An increase to allowable height (as measured in feet), provided the increase does not exceed the maximum number of feet permitted by story in the height categories contained within *Article 3.3. Height Requirements*. The Planning and Development Officer may not administratively approve an increase in number of stories as specified in the Master Plan.
4. A transfer of nonresidential floor area or residential dwelling units, from one area to another, not to exceed a 20% maximum for each standard.
5. Minor adjustments in location of building, parking and open space areas. A minor adjustment shall be a modification in orientation or distance to property line; however, the adjustment shall not exceed 100 feet in distance from the approved location, and shall not be located any closer than 50 feet to the boundary of the PD District. However, where a building or parking area is shown on the approved Master Plan within 50 feet of a property line, the building or parking area adjustment may not be located any closer to the property line than as shown on the approved Master Plan. An adjustment to the location of transit facilities is permitted, provided the adjustment occurs prior to the recordation of the transit easement.
6. An exchange of open space area, provided the exchanged properties are of like acreage, value and utility and that no tree conservation area or Open Space Plan has been recorded for the requested exchanged properties with register of deeds office in the county where the property is located.
7. An exchange of above ground stormwater control facilities of like size. The Planning and Development Officer may not administratively approve the relocation of an above ground stormwater facility to a location closer than 50 feet from the boundary of the PD District.
8. A relocation of access points, driveways or sidewalks either within or outside

of the public right-of-way with the concurrence of the Transportation Division.

9. A relocation of a fence, wall, sign or utility. Fences or walls required for transition areas or buffer yards may not be removed or relocated to an area that conflicts with the buffering requirement.
10. Any requirement associated with a permitted change must be shown on the Master Plan. By example, if a 10% increase in density requires a different street cross-section, the street cross-section must be updated on the Street and Block Plan.

### B. Non-Administrative Amendments

Any other amendment not listed in *Sec. 4.7.6.A.* shall be subject to the rezoning process specified in *Sec. 10.2.4.*

### C. Existing Master Plan Documents

All PD Master Plans in existence prior to September 1, 2013, shall not be considered nonconforming; where conflicting provisions exist in this UDO, these previously approved Master Plans may be constructed in accordance with the approved Master Plan.

### D. Committed Elements

Where a PD Master Plan specifies certain committed timed elements, the applicant may request an extension for up to 1 year, to be granted by the Planning and Development Officer provided development within the PD District or in the vicinity has not created the need for the committed timed elements.

# CHAPTER 5. OVERLAY DISTRICTS

<b>Article 5.1. General Provisions</b>	<b>5 – 2</b>
Sec. 5.1.1. District Intent Statements .....	5 – 2
<b>Article 5.2. Environmental Overlays</b>	<b>5 – 5</b>
Sec. 5.2.1. Airport Overlay District (-AOD) .....	5 – 5
Sec. 5.2.2. Metro-Park Overlay District (-MPOD) .....	5 – 6
Sec. 5.2.3. Urban Watershed Protection Overlay District (-UWPOD) .....	5 – 7
Sec. 5.2.4. Falls Watershed Protection Overlay District (-FWPOD) .....	5 – 7
Sec. 5.2.5. Swift Creek Watershed Protection Overlay District (-SWPOD) .....	5 – 7
<b>Article 5.3. Corridor Overlays</b>	<b>5 – 8</b>
Sec. 5.3.1. Special Highway Overlay Districts (-SHOD-).....	5 – 8
<b>Article 5.4. Character Protection Overlays</b>	<b>5 – 12</b>
Sec. 5.4.1. General Historic Overlay District (-HOD-G) .....	5 – 12
Sec. 5.4.2. Streetside Historic Overlay District (-HOD-S).....	5 – 14
Sec. 5.4.3. Neighborhood Conservation District (-NCOD).....	5 – 15
<b>Article 5.5. Transit Overlays</b>	<b>5 – 21</b>
Sec. 5.5.1. Transit Overlay District (-TOD).....	5 – 21
<b>Article 5.6. Parking Overlays</b>	<b>5 – 22</b>
Sec. 5.6.1. Special Residential Parking Overlay District (-SRPOD) .....	5 – 22

## Article 5.1. General Provisions

### Sec. 5.1.1. District Intent Statements

#### A. General Purpose

1. The intent of the Overlay Districts is to apply regulations that achieve a specific purpose to a targeted area.
2. If a use is prohibited in either an applicable Overlay District or the General Use District, then that use is prohibited, even though one of the districts allows the use. The enumeration of expressly prohibited uses shall not be deemed either exclusive or all-inclusive.
3. In the event of a conflict with the General Use District, the overlay standards shall apply.

#### B. Environmental Overlays

##### 1. Airport Overlay District (-AOD)

- a. The -AOD protects the efficiency and long term usefulness of an area's aviation facilities, highways, arterials and major streets by controlling the type and design of land uses in proximity to such facilities.
- b. Provisions are made to ensure the attractiveness of this significant gateway to the City, and to protect the public from adverse health effects and annoyance by aircraft noise.
- c. Residential and similar uses are prohibited in the -AOD. The uses permitted are better able to protect themselves from aircraft noise and implement the functions of the airport.

##### 2. Metro Park Overlay District (-MPOD)

- a. The -MPOD preserves and protects the integrity of large natural parks that serve the citizens of Raleigh, the region and the state.
- b. Parks are protected from incompatible uses and intense developments, by the application of impervious surface and building height limitations near the boundaries of any Metro-Park.
- c. In general, land in a -MPOD is approximately 1,000 to 1,500 feet deep, as measured from the boundary of a Metro-Park, and follows identifiable features or boundaries, wherever possible.

##### 3. Urban Watershed Protection Overlay District (-UWPOD)

- a. The -UWPOD is intended to protect the integrity of drinking water in Raleigh and surrounding communities, so as to provide clean and safe water for residents, business, industries, plant and animal life at a reasonable cost.
- b. The -UWPOD is applicable to Class WS-IV waters only and is divided into 2 areas: a primary water supply watershed protection area and a secondary water supply watershed protection area.
- c. Regulations in the -UWPOD include impervious surface limitations and natural resource buffer yards. Use limitations are imposed by this overlay district.

##### 4. Falls Watershed Protection Overlay District (-FWPOD)

- a. The -FWPOD is intended to protect the integrity of drinking water in Raleigh and surrounding communities, so as to provide clean and safe water for residents, businesses, industries, plant and animal life at a reasonable cost.
- b. The -FWPOD is applicable to Class WS-IV waters only and is divided into 2 areas: a primary reservoir watershed protection area and a secondary reservoir watershed protection area.
- c. Regulations in the -FWPOD include impervious surface limitations and natural resource buffer yards. Along watercourses, additional design standards are applied. Use limitations are imposed by this overlay district.

##### 5. Swift Creek Watershed Protection Overlay District (-SWPOD)

- a. The -SWPOD is intended to protect the integrity of drinking water in Raleigh and surrounding communities, so as to provide clean and safe water for residents, businesses, industries, plant and animal life at a reasonable cost.
- b. The -SWPOD is applicable to Class WS-III waters only and is divided into 2 areas: a primary reservoir watershed protection area and a secondary reservoir watershed protection area.
- c. Regulations in the -SWPOD include impervious surface limitations and natural resource buffer yards. Along watercourses, additional design standards are applied. Use limitations are imposed by this overlay district.

## C. Corridor Overlays

### 1. Special Highway Overlay Districts (-SHOD-1 and -SHOD-2)

-SHOD-1 and -SHOD-2 protect and preserve the natural scenic beauty along designated major access corridors and specified principal arterials. Maintaining the attractiveness of these corridors and arterials enhances the economic value of the community by encouraging tourism and trade. -SHOD-1 and -SHOD-2 are established for the purpose of:

- a. Protecting the public investment in and lengthening the time during which major access corridors and specified principal arterials can continue to serve their functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;
- b. Reducing the costs of future roadway expansions by requiring that buildings and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the highway;
- c. Reserving adequate roadside space through which neighborhood traffic may be admitted to and from the roadway system in a manner that avoids undue traffic concentrations, sudden turning and stopping and other hazards; and
- d. In contrast to -SHOD-1, -SHOD-2 contains no additional height or gross site size. -SHOD-2 requires a narrower protective yard and less planting than -SHOD-1.

## D. Character Protection Overlays

### 1. General Historic Overlay District (-HOD-G)

- a. The -HOD-G preserves and protects certain areas, structures, buildings and objects within the City's zoning jurisdiction that are considered to be valued and important assets and have special significance in terms of one or more of the following: history, prehistory, archaeology, architecture and culture and possess integrity of design, setting, materials, feeling and association.
- b. Regulations promote the use of and conservation of Historic Districts for the education, pleasure and enrichment of the residents of Raleigh, Wake County and the State of North Carolina.

## 2. Streetside Historic Overlay District (-HOD-S)

- a. The -HOD-S preserves and protects certain areas, structures, buildings and objects within the City's zoning jurisdiction that are considered to be valued and important assets and have special significance in terms of one or more of the following: history, prehistory, archaeology, architecture and culture and possess integrity of design, setting, materials, feeling and association.
- b. Regulations promote the use of and conservation of Historic Districts for education, pleasure and enrichment of the residents of Raleigh, Wake County and the State of North Carolina.
- c. In contrast to the -HOD-G, a -HOD-S applies only to structures as viewed from the adjacent street.

## 3. Neighborhood Conservation District (-NCOD)

- a. The -NCOD preserves and enhances the general quality and appearance of older neighborhoods, for it is recognized that built environmental characteristics are a major part of the identity and positive image of the City.
- b. Through the regulation of street design, greenways, rights-of-way and built environmental characteristics, -NCOD stabilizes and improves property values and promotes local design qualities.
- c. By respecting the context of existing built environmental characteristics, the -NCOD reduces conflicts between new construction and existing development, and it encourages compatible infill development.

## E. Transit Overlays

### 1. Transit Overlay District (-TOD)

- a. When combined with the appropriate base district, height and frontage, the -TOD allows for intense, compact and walkable mixed-use development in core areas around planned transit stations as designated on the Urban Form Map or in an adopted station area plan.
- b. The -TOD modifies the underlying district, height and frontage standards to promote a vibrant pedestrian core by prohibiting certain incompatible uses, reducing required parking and limiting surface parking and requiring that buildings have a minimum of 2 stories.

## F. Parking Overlays

### 1. Special Residential Parking Overlay District (-SRPOD)

- a. The -SRPOD restricts parking area, location and surfacing for detached structures used for single unit living.
- b. The requirement to park vehicles on an improved surface reduces soil compaction and erosion, which is detrimental to the City's storm sewer utility.
- c. The standards permit the orderly parking of vehicles on-site.

## Article 5.2. Environmental Overlays

### Sec. 5.2.1. Airport Overlay District (-AOD)

#### A. Uses

##### 1. Permitted Uses

Unless prohibited in *Sec. 5.2.1.A.3.*, those uses permitted in the underlying district shall be permitted in the -AOD. In addition, the following uses are subject to the use standards stated in *Sec. 5.2.1.A.2.*

- a. Allowed outdoor storage under *Sec. 7.5.3.*; and
- b. Concrete and cement mixing plants, including the outdoor storage of materials used in production.

##### 2. Use Standards for Allowed Uses

The following use standards apply to those uses identified in *Sec. 5.2.1.A.1.* Uses shall be fully shielded with either a permanent overhead cover or a canopy of shade trees that meets all of the following.

- a. There must be at least 1 locally-adapted shade tree for every 2,000 square feet of total site area.
- b. The shade trees must be adequately protected from damage due to activities performed or materials stored on the site.
- c. The shade trees must be distributed within the site area so that at maturity the expected combined tree canopy covers at least 35% of the site area.
- d. If the site area is greater than 5 acres, the site must be divided in segments of no greater than 5 acres in size and all segments must be separated from one another by an expected canopy of shade trees of at least 100 feet wide.
- e. Compliance with all the above conditions must be achieved without including trees located in a required protective yard.

##### 3. Prohibited Uses

The following uses are prohibited in an -AOD:

- a. All household living;

- b. All group living;
- c. All social service;
- d. All civic except for cemeteries and police, fire and EMS stations;
- e. Day cares;
- f. Hospitals;
- g. Detention centers, jails, prisons;
- h. Resource extraction, landfills;
- i. Off-premise signs; and
- j. Any use that involves dangerous, noxious or offensive activity that has excessive smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause.

#### B. Setbacks and Height

##### 1. Setbacks

The setbacks of the underlying district apply in the -AOD.

##### 2. Height

The maximum height limits of the underlying zoning district apply unless the height regulations adopted by the Raleigh-Durham Airport Authority are more restrictive, in which case the more restrictive height limits apply.

#### C. Supplemental Regulations

##### 1. Lighting

All outdoor lighting shall be full cutoff. FAA-approved warning lights to mark obstructions to aircraft are exempted from this regulation.

##### 2. Rooftops

Rooftops shall be uniform in color and made of non-reflective material.

## Sec. 5.2.2. Metro-Park Overlay District (-MPOD)

### A. Permitted Uses

Uses permitted in the underlying district are permitted in a -MPOD.

### B. Prohibited Uses and Activities

Prohibited uses and activities in a -MPOD:

1. Any establishment, use or trade that emits detectable odor at a Metro-Park boundary more than 15 minutes in any 1 day or more than 2 days out of the calendar month;
2. Above-ground storage of hazardous waste, as defined in the Code of Federal Regulations 2161.3 and 263.33, or as the same may be amended by law, except up to 55 gallons which shall be stored inside a fully impervious structure. This prohibition does not include underground storage in tanks which meet applicable fire prevention standards and federal and state regulations and otherwise comply with the City Code; and
3. Use of outdoor speakers within 500 feet of a Metro-Park boundary.

### C. Setbacks

#### 1. Separation and Protective Yards

- a. The setbacks of the underlying zoning district shall apply with the exception that any portion of a lot abutting a Metro-Park boundary requires a 32-foot wide primary tree conservation area along the entire length of the property boundary.
- b. No tree or land disturbing activity, animal pen, structure, septic system, stormwater facility or vehicular surface area may be located within 32 feet of a Metro-Park boundary.

#### 2. Natural Resource Buffer Yards

All watercourses that both drain into a Metro-Park and have concentrated flow from a drainage area of at least 5 acres must establish a primary tree conservation in accordance with *Sec. 9.2.3*.

### 3. Height

- a. Buildings and structures located within 1,000 feet of a Metro-Park boundary shall be limited to a maximum height of 45 feet, provided that no building is greater than 2½ stories.
- b. Buildings and structures not otherwise restricted to a lower height located further than 1,000 feet from a Metro-Park boundary, which are more than 45 feet high or contain more than 2½ stories can add 25 feet of additional setback from the 1,000-foot distance from the edge of the Metro-Park boundary for each foot of height greater than 45 feet.

### D. Supplementary Regulations

#### 1. Lighting

- a. No exterior lighting may cause illumination in excess of 0.4 footcandles measured at the boundary of the Metro-Park.
- b. Full-cutoff lights must be used for all lighting.
- c. No external illumination of buildings that face the boundary of the Metro-Park is allowed except for the exterior lighting of building entrances, exits or loading docks.
- d. No provision of a -MPOD shall be in conflict with applicable FAA lighting regulations.

#### 2. Impervious Surface Coverage

Excluding streets, impervious surface areas may not be added so that the impervious surface lot coverage exceeds 45% in areas that drain into the Metro-Park. Impervious surface coverage greater than 30% but less than 45% of the lot is allowed but only when identified pollutants (such as nitrogen and/or phosphorous) are reduced by a minimum of 25%.

## E. Hardships

1. In those instances where the Board of Adjustment determines that the application of these regulations would deprive the landowners of reasonable use of their land, the Board of Adjustment may alter the impervious surface coverage limits, increase height restrictions and reduce the widths of the protective yard as determined necessary.
2. Maintenance of the protective yard should be given the highest priority by the Board of Adjustment when making its determination to modify one or more of these regulations.

## F. Existing Structures, Uses and Impervious Surfaces

1. Structures, uses and impervious surfaces existing at the time that the -MPOD is first applied to the property shall not be deemed a zoning nonconformity solely because of the overlay district.
2. All additions, changes, expansions and alterations to existing structures, impervious surfaces and uses must comply with the regulations of the -MPOD, unless the Board of Adjustment under Sec. 10.3.6. approves the addition, change, expansion or alteration as if the existing structure or use were made nonconforming by application of a -MPOD.

## Sec. 5.2.3. Urban Watershed Protection Overlay District (-UWPOD)

### A. Base Standards Apply

Unless specifically set forth in this section, allowed uses, dimensional requirements, height limits and general development standards of the underlying zoning district apply.

### B. Prohibited Uses

The following uses are prohibited:

1. New landfills; and
2. New sites for land application of sludge, residuals or petroleum contaminated soils.

### C. Additional Development Standards

Watercourse buffer, impervious surface, stormwater runoff and water quality requirements are set forth in Sec. 9.5.1.

## Sec. 5.2.4. Falls Watershed Protection Overlay District (-FWPOD)

### A. Base Standards Apply

Unless specifically set forth in this section, allowed uses, dimensional requirements, height limits and general development standards of the underlying zoning district apply.

### B. Prohibited Uses

The following uses are prohibited:

1. New landfills.
2. New sites for land application of sludge, residuals or petroleum contaminated soils.

### C. Additional Development Standards

Watercourse buffer, impervious surface, stormwater runoff and water quality requirements are set forth in Sec. 9.5.2.

## Sec. 5.2.5. Swift Creek Watershed Protection Overlay District (-SWPOD)

### A. Base Standards Apply

Unless specifically set forth in this section, allowed uses, dimensional requirements, height limits and general development standards of the underlying zoning district apply.

### B. Prohibited Uses

The following uses are prohibited:

1. New landfills.
2. New sites for land application of sludge, residuals or petroleum contaminated soils.

### C. Additional Development Standards

Watercourse buffer, impervious surface, stormwater runoff and water quality requirements are set forth in Sec. 9.5.3.

## Article 5.3. Corridor Overlays

### Sec. 5.3.1. Special Highway Overlay Districts (-SHOD-)

#### A. District Designation

1. -SHOD-1 and -SHOD-2 are located on either side of a Major Access Corridor, Thoroughfare or Arterial, near or adjacent to Metro-Parks, airports, research parks or Wake County Special Highway Overlay Districts, beginning at the outer edge of the right-of-way.
2. Each Special Highway Overlay District should be 1,000 to 1,500 feet deep, except a lesser distance should be applied where identifiable conditions exist to screen the visibility of motorists.
3. District boundaries should follow identifiable boundaries whenever possible. However, when a new right-of-way has been established by the Comprehensive Plan, the district boundaries shall be calculated from the newly established right-of-way line.

#### B. Prohibited Uses

Off-premise signs are prohibited.

#### C. Lot Area and Subdivision

1. The minimum gross site size is 2 acres within the SHOD-1, except for detached, attached, townhouse and apartment buildings, cottage courts, congregate care facilities and life care communities.
2. Lots and uses on sites less than 2 acres in size are not to be deemed nonconforming by virtue of this Article.
3. Uses and lots must be developed in accordance with a unified plan for landscaping, access, parking, loading, lighting, noise and siting of buildings.

#### D. Protective Yards

##### 1. In General

- a. If there is a conflict between a protective yard required by a Special Highway Overlay District and a protective yard established by the underlying district, the protective yard with the greater width controls.

- b. Where necessity requires the location of a public or private utility easement adjacent to the Major Access Corridor that prohibits locating the required planting of the protective yard immediately adjacent to the right-of-way, the required protective yard must be provided adjacent to the utility easement.

##### 2. Protective Yards in -SHOD-1

- a. Any portion of a lot abutting a Major Access Corridor requires a 50-foot protective yard landscaped in accordance with *Sec. 5.3.1.F.*, or on parcels 2 acres and larger in size, the protective yard must be established as tree conservation area in accordance with *Article 9.1. Tree Conservation* When 2 Major Access Corridors intersect, the 50-foot wide protective yard applies for the entire length adjoining the Major Access Corridor inside the -SHOD-1.
- b. Any portion of a lot abutting a Major Access Corridor where the property both adjoins and gains access from a public Marginal Access Street and parallel to a Major Access Corridor requires a 25-foot protective yard landscaped in accordance with *Sec. 5.3.1.F.*, or on parcels 2 acres and larger in size, the protective yard must be established as tree conservation area in accordance with *Article 9.1. Tree Conservation*.
- c. Any portion of a lot abutting a Thoroughfare or Commercial Street, other than a Major Access Corridor, that intersects with and gains access from a Major Access Corridor requires a 50-foot protective yard for a distance of 200 feet from the intersection of the rights-of-way. All protective yards must be landscaped in accordance with *Sec. 5.3.1.F.*, or on parcels 2 acres and larger in size, the protective yard must be established as tree conservation area in accordance with *Article 9.1. Tree Conservation*.

##### 3. Protective Yards in -SHOD-2

- a. Any portion of a lot abutting a Major Access Corridor requires a 25-foot protective yard landscaped in accordance with *Sec. 5.3.1.F.*, or on parcels 2 acres and larger in size, the protective yard must be established as tree conservation area in accordance with *Article 9.1. Tree Conservation*. When 2 Major Access Corridors intersect, the 25-foot wide protective yard must apply for the entire length adjoining the Major Access Corridor inside the -SHOD-2.

- b. Any portion of a lot abutting a Major Access Corridor where the property both adjoins and gains access from a public Marginal Access Street and parallel to a Major Access Corridor requires a 25-foot protective yard landscaped in accordance with *Sec. 5.3.1.F.* , or on parcels 2 acres and larger in size, the protective yard must be established as tree conservation area in accordance with *Article 9.1. Tree Conservation.*
- c. Any portion of a lot abutting a Thoroughfare or Commercial Street, other than a Major Access Corridor, that intersects with and gains access from a Major Access Corridor requires a 25-foot protective yard for a distance of 200 feet from the intersection of the rights-of-way. All protective yards must be landscaped in accordance with *Sec. 5.3.1.F.* or on parcels 2 acres and larger in size, the protective yard must be established as tree conservation area in accordance with *Article 9.1. Tree Conservation.*

**E. Height**

**1. Height in -SHOD-1**

Buildings and structures cannot exceed a height of 75 feet or 5 stories.

**2. Height in -SHOD-2**

Buildings and structures cannot exceed the maximum allowed height of the underlying district.

**F. Planting Requirements in Protective Yards**

**1. Required Plant Materials**

All required protective yards shall contain the following plantings.

	Planting per 100 Lineal Feet	
	SHOD-1	SHOD-2
<b>Shade Trees</b>		
Deciduous	7	3
Evergreen	3	2
<b>Understory Trees</b>	6	3
<b>Shrubs</b>	32	16
% Deciduous (max)	40%	40%
Shrub Alternates	Wall, Fence or Berm	Wall, Fence or Berm

**2. Shade Trees**

- a. All required trees must be a locally-adapted species with an expected mature height of 35 feet or greater and an expected mature crown spread of at least 30 feet or greater unless subject to an overhead power line in which case the mature height may be less.
- b. Each deciduous tree must be at least 14 feet in height and have a minimum caliper of 3½ inches at time of planting.
- c. Each evergreen tree must be at least 8 feet in height and have a minimum caliper of 2 inches at time of planting.
- d. Two evergreen trees a minimum of 4½ feet in height when planted may be substituted for each required evergreen tree.
- e. Trees cannot be planted within a tree conservation area or the critical root zone of an existing tree and must be planted at least 15 feet from any other tree and no further than 50 feet from any other tree, measured from tree trunk to tree trunk.

**3. Understory Trees**

- a. Understory trees must be a locally-adapted species with an expected mature height of at least 15 feet and an expected mature crown spread of at least 15 feet.
- b. Each understory tree must be a minimum height of 6 feet tall at time of planting.
- c. Trees cannot be planted within a tree conservation area or the critical root zone of an existing tree and must be planted at least 15 feet from any other tree and no further than 50 feet from any other tree, measured from tree trunk to tree trunk.

**4. Shrubs**

- a. All shrubs must be locally-adapted species, and when planted must be a minimum height of 24 inches. The expected maintained minimum height of the shrubs must be 5 feet within 3 years of planting.
- b. Shrub planting must form at least 1 continuous row of shrubs spaced 5 feet on center across the entire protective yard except for driveways. Shrubs must be planted outside of and adjacent to any tree conservation area. Shrubs cannot be planted within the critical root zone of any tree in protective yards that are not tree conservation areas.

- c. Either a wall or a solid fence at least 5 feet in height may be erected in lieu of the required shrubs in protective yards that are not tree conservation areas. The wall or fence in terms of appearance, texture, and quality must be made of the same or compatible material and color as the principal building. The erected wall or fence must be landscaped so that no more than two-thirds of its surface area will be visible within 3 years after the erection of the structure; 40% of the plant material may be deciduous. No planting is required for decorative fences.
- d. A berm with a minimum height of 3 feet, measured perpendicular to the center of the crown, may be substituted for a portion of the required shrubs. The berm must contain a rounded crown suitable for planting, and have a stabilized side slope of no greater than 3-to-1. A steeper side slope may be used in exceptional cases when all of the following are met:
  - i. This steeper slope is sufficiently stabilized; and
  - ii. The landscape objectives of the overlay district are better achieved; and
  - iii. Physical constraints of the site prevent the use of a flatter slope.
- e. The berm must be planted with  $\frac{3}{4}$  of the required number of shrubs.
- f. Shrubs planted on the berm may have a lesser mature height; provided that the expected combined height of the berm and planting after 3 years is 5 feet.
- g. A berm cannot be built in any protective yard whenever the protective yard is also a tree conservation area.

## 5. General

- a. Maintenance of a required protective yard must conform to *Sec. 7.2.4.D*.
- b. No protective yard may remain denuded or exposed with bare soil.
- c. The location of required landscaping may not obstruct the views of motorists using any street, private driveway or the approach to any street intersection so as to constitute a traffic hazard, a condition dangerous to the public safety or violate the specifications under the Raleigh Street Design Manual.

## G. Existing Vegetation

### 1. General

Where the protective yard basal area is less than 50 for each 50 linear feet, existing vegetation that meets or exceeds the quantity, spacing and height standards may be used to satisfy the protective yard requirements. Where the protective yard basal area is 50 or more for each 50 linear feet, such areas shall be primary tree conservation areas and must meet the requirements of *Article 9.1. Tree Conservation*

### 2. Tree Preservation Credit

Preservation of existing live natural trees between the principal building and the street right-of-way can be credited towards the tree planting requirements of this section.

#### a. Method of Calculation and Minimum Size

Credit toward the required number of trees for each 100 feet will be given on a tree-for-tree basis for each preserved tree 3 inches DBH and larger provided such trees are evenly distributed across each 100 feet.

#### b. Protected Ground Area

- i. The critical root zone of each preserved tree must be entirely within the protective yard with no tree disturbing activity within any critical root zone.
- ii. During construction, the protective yard shall be protected with a tree protection fence. Credit for existing trees will not be allowed if there are any tree disturbing activities or encroachments in the protective yard.

#### c. Unsafe and Diseased Trees

No credit is allowed for any tree if the tree is unhealthy or dead or is a hazardous tree. The death of or replacement of any preserved tree which was used for credit requires the owner to plant new trees equal to the number of credited trees; such plantings must meet the requirements of this section.

**d. Minimum Tree Requirements**

In no case may credits for preserved trees eliminate the shade and understory tree spacing requirement above; no protective yard may contain less than 1 tree.

**3. Reduction of Shrubs**

The amount of required shrubs may be reduced by 50% if existing trees located in the protective yard meet the space, quantity and specification requirements are at least 25 feet tall and are preserved and protected from encroachments under *Sec. 5.3.1.G.2.b.*

**4. Supplemental Planting**

Supplemental plantings may be required, if it can be reasonably inferred that after 5 years, the existing vegetation will not meet the requirements of this section. Where such supplemental plantings are required, the plantings must meet the requirements of *Sec. 5.3.1.F.*

**H. Expansions and Additions**

**1. General Requirements**

Any new and expanded loading, utility service, and display area, building, structure, surface area of the use or vehicular surface may not locate in any protective yard.

**2. In -SHOD-1**

- a. A protective yard at least 12 feet wide and containing 25% of the plantings required in *Sec. 5.3.1.F.* must be provided on the property if the gross floor area, surface area, vehicular surface area or any combination is increased by 25% of the existing area.
- b. For each additional percent of expansion greater than 25%, an additional 1½ feet of protective yard width and 3% of additional planting material must be added to the initial requirements until 100% of the requirements are met.

**3. In -SHOD-2**

- a. A protective yard at least 10 feet wide and containing 40% of the plantings required in *Sec. 5.3.1.F.* must be provided on the property if the gross floor area, surface area, vehicular surface area or any combination is increased by 25% of the existing area.
- b. For each additional percent of expansion greater than 25%, an additional factor of ¼ of a foot of protective yard width and 2 ¼% of additional planting material must be added to the initial requirements until 100% of the requirements are met.

**I. Lighting**

- 1. All outdoor lighting shall be full cutoff.
- 2. No exterior lighting may cause illumination in excess of ¼ maintained footcandle on any lot containing a dwelling, congregate care facility, life care community or Residential District.

**J. Outdoor Service Facilities**

Any outdoor pay window, drive-in facility, drive-thru facility, automated teller machine or any other outdoor service facility that is located on a lot that abuts a dwelling, congregate care facility, life care community or a Residential District, other than in a street, must be located at least 100 feet away from the abutting property line.

## Article 5.4. Character Protection Overlays

### Sec. 5.4.1. General Historic Overlay District (-HOD-G)

#### A. Applicability

This section applies to all individual Historic Landmarks and each General Historic Overlay District (-HOD-G) designated by the City Council.

#### B. Purpose and Objectives

1. The -HOD-G is intended to preserve the historic significance of properties that are formally designated by the City. Locally designated historic districts are areas which are deemed to be of special significance in terms of their history, prehistory, architecture, archeology or culture, and to possess integrity of design, setting, materials, feeling and association. The -HOD-G seeks to preserve the overall historic character of the district, as well as the key, character-defining details of each of the contributing resources, and to assure that new construction is compatible with this historic context.
2. The -HOD-G has the following objectives:
  - a. To promote the preservation and continued use of individual properties and districts of historic significance;
  - b. To preserve the integrity of historically significant resources;
  - c. To support sustainability by reusing existing built resources; and
  - d. To assure that new construction is compatible with the historic context of landmark properties and historic districts.

#### C. Certificate of Appropriateness Required

1. In addition to all other approval processes, within the -HOD-G and for any Historic Landmark, no portion of the exterior features of any building or other structure (including walls, fences, light fixtures, steps, pavement, path or any other appurtenant features), trees, or above ground utility structure nor any type of outdoor advertising sign, or portion of the designated interior features of a Historic Landmark is to be erected, altered, restored, demolished or moved unless and until after an application for a Certificate of Appropriateness as to the exterior features, or portion of the designated interior features of a Historic Landmark, has been submitted and approved.

2. A Certificate of Appropriateness shall be issued prior to any application for a building permit or other permit granted for the purpose of constructing, altering, moving or demolishing structures or appurtenant features being made, and shall be issued or denied, subject to such reasonable conditions as the Historic Development Commission may impose, according to such procedures as may be set forth elsewhere in this UDO or adopted by the Historic Development Commission.
3. A Certificate of Appropriateness shall be required for all activities specified in this section whether a building permit or other permit is otherwise required or not; except that no Certificate of Appropriateness shall be required for:
  - a. The ordinary maintenance or repair of any features that do not involve a change in:
    - i. Design;
    - ii. Material;
    - iii. Color; or
    - iv. Outer appearance.
  - b. The construction, reconstruction, alteration, restoration, moving or demolition of any feature which the Deputy Inspections Director certifies is required by the public safety because of an unsafe or dangerous condition.
  - c. In the event of equipment failure, accidental damage or natural occurrences (such as electrical storms, tornadoes, ice storms and the like), the ordinary maintenance or repair of:
    - i. Streets;
    - ii. Sidewalks;
    - iii. Pavement markings;
    - iv. Above-ground utility service lines; or
    - v. Street signs, traffic signs or replacement of streetlight fixtures.
4. All of the provisions of this section are applicable to construction, alteration, restoration, moving and demolition by the State of North Carolina, its political subdivisions, agencies, instrumentalities and public utilities.
5. Individual certificates of appropriateness for each change may be requested, or if the activity is of the same character and involves a number of objects, as is the case with utility pole replacement, a programmatic certificate of appropriateness may be requested.

#### D. Prohibited Activities

1. Prohibited activities within a -HOD-G or Historic Landmark include the following when conducted without an approved Certificate of Appropriateness:
  - a. The erection, alteration, changing, restoration, moving or demolition of:
    - i. Any entire building or structure;
    - ii. Any exterior features of a building or structure;
    - iii. Any site features (including walls, fences, light fixtures, steps, pavement, paths or any other appurtenant features);
    - iv. Trees;
    - v. Any above-ground utility structure;
    - vi. Any type of outdoor advertising sign; or
    - vii. Any portion of the designated interior features of a Historic Landmark.
  - b. The demolition by neglect (*Article 11.8. Demolition by Neglect of Historic Landmarks and Structures Within Historic Overlay Districts*) of:
    - i. Any contributing building or structure;
    - ii. Any exterior features of a contributing building or structure;
    - iii. Site features (including walls, fences, light fixtures, steps, pavement, paths or any other appurtenant features); or
    - iv. Any contributing outdoor advertising sign.
2. The demolition of any entire building, site or structure within a pending -HOD-G or pending Historic Landmark is prohibited when conducted without an approved Certificate of Appropriateness:
  - a. Any demolition during the pending designation may be delayed for a period up to 180 days from the date of issuance (unless the Historic Development Commission votes to waive or shorten it) or until the City Council takes final action, whichever occurs first.
  - b. Should the City Council approve the designation prior to the expiration of the 180 day delay period, a new application for a certificate of appropriateness for demolition must then be filed; however, the maximum period of delay for such demolition certificate shall be reduced

by the Historic Development Commission equal to the period of delay while the designation was pending.

#### E. Setbacks

1. The minimum and maximum setbacks within the -HOD-G and for Historic Landmarks shall be equal to the setbacks of typical well-related nearby buildings and structures in the overlay district, and equal with the character of the Historic Landmark, as set forth in the historic development standards below or as defined in the designation documents or nomination.
2. Where the setbacks or allowed encroachments of the underlying district conflict with these setback requirements, the setbacks of the historic development standards shall control.

#### F. Height

1. Buildings and structures shall be equal to the height of typical well-related nearby buildings and structures in the overlay district, and equal with the character of the Historic Landmark, as set forth in the historic development standards below or as defined in the designation documents or nomination.
2. Where the height regulations or allowed height encroachments of the underlying district conflict with these height requirements, the height requirements of the historic development standards shall control.

#### G. Signs

No sign shall be erected, altered, restored or moved except in compliance with a Certificate of Appropriateness.

#### H. Historic Development Standards

1. See documents entitled: "Design Guidelines for Raleigh Historic Districts," "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," and "The Secretary of the Interior's Standards for the Treatment of Historic Properties and the Guidelines for the Treatment of Cultural Landscapes." These documents are incorporated by reference as authorized by N.C. Gen. Stat. §160A-76, are made a part of this UDO and are on file with Planning and Development. These documents contain architectural guidelines and design standards that will be applied in considering applications for Certificates of Appropriateness to ensure as far as possible that the exterior features of buildings, structures and

their associated features located within a -HOD-G, and designated as a Historic Landmark, remain in harmony with other buildings, structures and appurtenant features in the overlay district, and the character of the Historic Landmark.

2. The current edition of "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be the sole standards and guidelines used in reviewing applications submitted by the State of North Carolina for a Certificate of Appropriateness.
3. The issuance of a Certificate of Appropriateness shall not be prohibited in situations where, owing to special conditions affecting the structure (such as topography, availability of materials, and lot size) but not affecting the -HOD-G or Historic Landmarks generally, compliance with the historic development standards would cause an unusual and unnecessary hardship on the property owner beyond that which other property owners in the -HOD-G or of Historic Landmarks would meet.

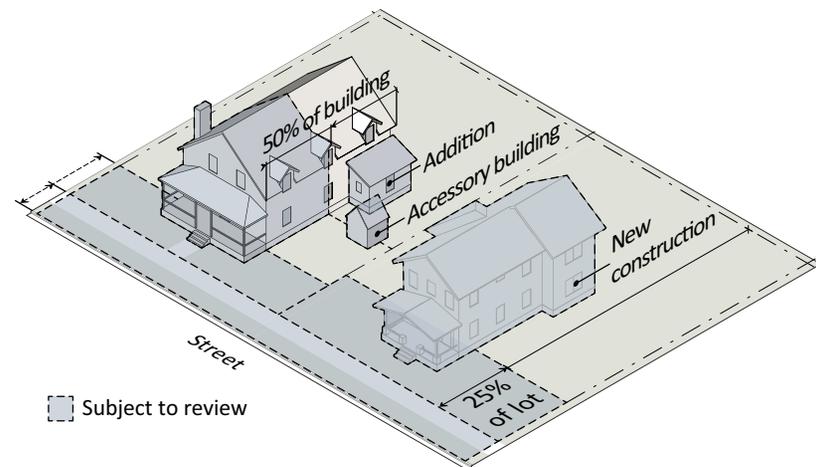
### Sec. 5.4.2. Streetside Historic Overlay District (-HOD-S)

#### A. Purpose and Objectives

1. The -HOD-S is established to provide for protection of the traditional development patterns of an area and to preserve historic resources found in it. The focus is on maintaining that character and on preserving those key character-defining features of individual historic resources within the district, as viewed from the street (as further defined below).
2. A -HOD-S consists of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, archeology or culture, and to possess integrity of design, setting, materials, feeling, and association.
3. The -HOD-S has the following objectives:
  - a. To promote the preservation and continued use of areas that contain a number of properties of historic significance;
  - b. To preserve the integrity of historically significant resources found in the area;
  - c. To support sustainability by reusing existing built resources; and
  - d. To assure that new construction is compatible with the broader characteristics of the historic context of area, as viewed from the street.

#### B. Applicability

1. This section applies to each -HOD-S designated by the City Council.
2. The provisions of *Sec. 5.4.1.C. through Sec. 5.4.1.H.* govern the administration of a -HOD-S, but apply only to the following areas within the boundaries of each -HOD-S:
  - a. The public right-of-way for primary and side streets;
  - b. The lot area between the public rights-of-way and the facade of any existing primary building or structure;
  - c. 25% of the depth of the lot area adjacent to the public right-of-way for vacant lots;
  - d. The first 50% of the depth of any existing principal building from the facade adjacent to a public right-of-way;
  - e. Any addition to a building or structure that projects beyond an existing building's maximum front and side wall and roof plane envelope regardless of distance from the public right-of-way;
  - f. The entirety of any new principal building construction on a vacant lot;
  - g. The entirety of any new accessory building construction located in whole or in part in areas *Sec. 5.4.2.B.2.b. through Sec. 5.4.2.B.2.d.* above; and
  - h. The entirety of any Historic Landmark and its designated boundary area that may be located within a -HOD-S.



### Sec. 5.4.3. Neighborhood Conservation District (-NCOD)

#### A. Applicability

1. No building, structure, street, right-of-way or greenway shall be constructed, moved, altered, changed or increased in size within a -NCOD except in conformity with the regulations contained in this section for the adopted -NCOD.
2. All lots and structures existing at the time that the -NCOD is first applied to the property shall not be deemed nonconforming solely because of this overlay district.
3. All additions, changes, expansions and alterations to existing structures, impervious surfaces and uses must comply with the regulations of the -NCOD, unless the Board of Adjustment under *Sec. 10.3.6.* approves the addition, change, expansion or alteration as if the existing structure or use were made nonconforming by application of a -NCOD.

#### B. Locational Guidelines

Except for applications filed by the City or otherwise authorized by the City Council, Planning and Development is instructed not to accept -NCOD applications unless the application meets all the following:

1. Is requesting that either at least a minimum of 15 contiguous acres be zoned -NCOD or that an existing -NCOD be extended. If allowed in the underlying zoning district, all uses in the civic use category can be excluded when determining the minimum 15 acre requirement;
2. Is signed by a majority of the property owners within the area proposed to be rezoned -NCOD;
3. Is applied to an area where at least 75% of the lots are developed; and
4. It is located in an area in which the City Council has adopted into *Sec. 5.4.3.D.* specific neighborhood built environmental characteristics and regulations.

#### C. Designation of a -NCOD

1. Within 4 years following the City Council adoption of specific neighborhood built environmental characteristics and regulations, Planning and Development may accept an application to rezone property to a -NCOD.

2. Following the City's official acceptance of an application to rezone property to a -NCOD, no construction permit shall be issued or subdivision or recombination be approved by the City during the pendency of the application to amend the Official Zoning Map unless the proposed construction or the proposed subdivision or recombination meets all of the provisions of the existing zoning district, and also the adopted neighborhood built environmental characteristics and regulations contained in *Sec. 5.4.3.D.* for the proposed -NCOD.

#### D. Approval Process

Application to rezone a property to a -NCOD shall be in accordance with the following process.

1. Submittal of a petition to the City Clerk requesting City Council consideration for a neighborhood built environmental characteristics and regulations analysis. The petition shall define the study area, provide evidence to support that the area complies with the locational guidelines and identify the specific built environmental characteristics and regulations to be analyzed. Prior to the petition being scheduled for the City Council meeting, Planning and Development shall be granted a 2-week period to review the adequacy of the petition and prepare a compliance report consistent to accompany the City Council's receipt of the petition.
2. Following City Council's review of the petition, the City Council shall determine whether to direct Planning and Development to complete the neighborhood built environmental characteristics and regulations analysis.
3. In accordance with City Council's directive, Planning and Development shall complete an analysis of the specific built environmental characteristics and regulations for the neighborhood study area and identify the specific built environmental characteristics and regulations that reflect the predominant representation of the lots within the neighborhood study area. For the purposes of this paragraph, predominant shall mean greater than 75%. Upon completion of the analysis, Planning and Development shall by first-class mail notify all persons owning property within the study area the results of the analysis and the date, time and location of a meeting to be held for the neighborhood. The notice shall be mailed between 14 and 21 days prior to the date of the scheduled neighborhood meeting. Following the neighborhood meeting, the neighborhood built environmental

characteristics and regulations analysis and summary of the neighborhood meeting shall be presented to the City Council.

4. Upon receiving the neighborhood built environmental characteristics and regulations analysis, the City Council shall review the results of the analysis and determine whether to authorize a public hearing to propose any specific neighborhood built environmental characteristics and regulations into this section. If the City Council proposes that specific built environmental characteristics and regulations for the neighborhood study area be considered for inclusion in this section, a text change petition may be submitted and processed for review under *Sec. 10.2.3*.
5. If the City Council adopts a text change incorporating specific neighborhood built environmental characteristics and regulations into this section, an application to rezone property within the designated neighborhood study area to a -NCOD in order to apply the adopted built environmental characteristics and regulations may be accepted by Planning and Development within a 4-year period following the adoption of the regulations. The rezoning petition must be submitted and signed by at least a majority of the private property owners that own a majority of the acreage within the -NCOD area; in both instances, the City Council, at its discretion, may direct staff to accept a rezoning petition that does not contain 51% of the property owners as signatories on the petition. In this instance, the City would process the petition as the applicant.
6. Following the adoption of the initial -NCOD, Planning and Development may accept an application to expand a specific -NCOD and applicable built environmental characteristics and regulations for properties either located within the original neighborhood study area or contiguous to it.
7. Following the original adoption of specific neighborhood built environmental characteristics and regulations into this section, any subsequent proposed text change to revise the specific neighborhood built environmental characteristics and regulations in this section, having first been authorized by City Council, shall require the applicant to notify by first class mail all persons owning property (mailing addresses as shown on the County tax abstract at the time of the City Council's authorization of the public hearing) within the original neighborhood study area. The notification shall identify the proposed changes and inform the property owners of the date, time and location of the scheduled public hearing. Within a period of no more than 25

days nor less than 15 days prior to the date of the scheduled public hearing, the applicant shall deliver a copy of the letter and the sealed, addressed, stamped envelopes to Planning and Development.

#### **E. Development Standards**

Subject to any other applicable -NCOD, the development standards listed below shall apply as stated in this section for the specific adopted -NCOD:

1. Required minimum net area for any dwelling unit;
2. Maximum residential density;
3. Setbacks;
4. Height; and
5. Vehicular surface areas.

#### **F. Neighborhood Built Environmental Characteristics and Regulations**

Following the adoption of both neighborhood built environmental characteristics and regulations by the City Council and the approval of a -NCOD in accordance with this section for properties located within the specifically designated neighborhood listed below, the following neighborhood built environmental characteristics and regulations for properties located within the applicable neighborhood shall control.

##### **1. Brookhaven Neighborhood**

###### **a. South District (south of Millbrook Road)**

- i. Minimum lot size: 20,000 square feet.
- ii. Lot width at the building setback line: Minimum of 100 feet.
- iii. Front yard setback: Minimum of 50 feet.
- iv. Maximum building height: 2½ stories.

###### **b. North District (north of Millbrook Road)**

- i. Minimum lot size: 14,000 square feet.
- ii. Maximum building height: 2½ stories.

## 2. Cameron Park Neighborhood

### a. Core Area

- i. Maximum lot size: 21,779 square feet.
- ii. Front yard setback: Within 10% of the average front yard setback of houses on the same block face. No portion of any garage or carport shall protrude beyond the primary facade of the principal structure. Covered porches shall be considered part of the primary facade. For corner lots with driveway access from the secondary side, attached garage entrances must be set back at least 10 feet from the secondary side building elevation. A secondary side elevation is the alternative side of a corner lot house that faces a roadway, but does not include a primary entrance to the house.
- iii. Side yard setback: Within 5 feet of the average side yard setback and corner side yard setback of other properties on the block face, but no less than 5 feet.
- iv. Setback for accessory structures: Side and rear yard setbacks for accessory structures, including those greater than 150 square feet shall be a minimum of 3 feet.
- v. Maximum building height: 30 feet with the exception of those lots fronting on Park Drive between Oberlin Road and Forest Road (except the lots fronting the south side of Park Drive, between Oberlin Road and Groveland Avenue), all lots fronting on West Johnson Street and on the south side of Peace Street, and the 3 lots fronting the south side and the 4 lots fronting the north side of Park Drive immediately west of St. Mary's Street (Wake County Registry: DB 08350, PG 1823; DB 02660, PG O-E-; DB 11659, PG 1800; DB 02425, PG 0670; DB 12811, PG 0908; DB 07129, PG 0713; DB 09060, PG 1175), which shall be limited to a maximum building height of 26 feet.
- vi. Building placement and building entrance: The orientation of the building and entry level of the main entrance to the building shall be located in a manner that is the same as the majority of the buildings on the block face.

- vii. Vehicular surface areas: New driveways onto public streets shall not be allowed for lots adjacent to alleys. Within that portion of the front yard area (as measured perpendicular to the right-of-way), between the principal building and the public street, new vehicular surface area shall not be permitted except where there are no adjacent alleys and when driveways are constructed alongside the house in the shortest practical distance from the right-of-way to the rear of the building. Parking areas and any other vehicular surface area installed prior to the August 3, 2010 shall not be deemed a zoning nonconformity. No vehicular entrance to a garage attached to the principal structure shall face the front yard. Maximum driveway width shall be limited to 12 feet for single driveways and 20 feet for shared driveways.

### b. Transition Area B

- i. Maximum building height: 40 feet when located within 75 feet of an adjacent Core Area lot.

## 3. Five Points East Neighborhood

### a. Core Area

- i. Maximum lot size: 13,067 square feet.
- ii. Front yard setback: Within 10% of the average front yard setback of houses on the same block face as the new construction.
- iii. Maximum building height: 2 stories, 35 feet. Buildings may exceed 35 feet when the average height of houses on the same block face as the new construction exceeds 35 feet, and then the allowed height shall be within 10% of the average height of houses in the same block face as the new construction.

## 4. Foxcroft Neighborhood

- a. Minimum lot size: 108,900 square feet.
- b. Minimum lot width: 200 feet as measured at the required front yard setback.

- c. Front yard setback: Minimum of 50 feet.
- d. Side yard setback: Minimum of 40 feet.
- e. Rear yard setback: Minimum of 40 feet.
- f. Setbacks for accessory structures: Side and rear yard setbacks for accessory structures shall be a minimum of 20 feet.
- g. Maximum building height: 40 feet for the principal building and 25 feet for accessory structures.

#### **5. Glen Forest Neighborhood**

- a. Minimum lot size: 17,424 square feet.
- b. Minimum lot frontage: 100 feet.
- c. Maximum building height: 35 feet.

#### **6. King Charles Neighborhood**

- a. South District (south of New Bern Avenue, south of Bertie Drive and Albemarle Avenue, frontage lots on north side of Bertie Drive and Albemarle Avenue east of Locke Lane)**
  - i. Minimum lot size: 33,541 square feet.
  - ii. Minimum lot width: 144 feet.
  - iii. Front yard setback: Minimum of 76 feet.
  - iv. Maximum building height: 2 stories.

#### **7. Laurel Hills Neighborhood**

- a. Minimum lot size: 21,780 square feet.
- b. Minimum lot frontage: 45 feet.
- c. Minimum lot width: 100 feet as measured 80 feet from the front property line.
- d. Front yard setback: Minimum of 50 feet.
- e. Maximum building height: 35 feet.

#### **8. Mordecai Neighborhood**

##### **a. Conservation District 1 (west of Wake Forest Road and north of Cedar Street, except for part of the north side of Courtland Drive - see Mordecai Plan boundaries)**

- i. Minimum lot size: 7,260 square feet.
- ii. Maximum lot size: 14,520 square feet.
- iii. Minimum lot width: 50 feet.
- iv. Maximum lot width: 100 feet.
- v. Front yard setback: Minimum of 35 feet.
- vi. Maximum building height: 35 feet.

##### **b. Conservation District 2 (east of Wake Forest Road, south of Cedar Street and portions of Courtland Drive - see Mordecai Plan boundaries)**

- i. Minimum lot size: 7,260 square feet.
- ii. Maximum lot size: 14,520 square feet.
- iii. Minimum lot width: 50 feet.
- iv. Maximum lot width: 100 feet.
- v. Front yard setback: Minimum of 15 feet; maximum of 25 feet.
- vi. Maximum building height: 35 feet.

#### **9. New Bern - Edenton Neighborhood**

- a. Minimum lot size: 4,000 square feet.
- b. Minimum lot frontage: 30 feet.
- c. Front yard setback: Minimum of 10 feet, maximum of 25 feet.
- d. Side yard setback: Minimum of 0 feet when minimum building separation is met.
- e. Building separation: Minimum of 10 feet.
- f. Maximum building height: 35 feet.

### 10. North Boylan Neighborhood

- a. Front Yard Setback: Within 10% of the average front yard setbacks established by buildings on the same side of the block face as the proposed building, but not less than 5 feet or greater than 25 feet.
- b. Building placement and building entrance: Buildings and their primary entrances shall be oriented towards a public street. Additional entrances may be oriented towards the block interior so long as a direct pedestrian connection is provided to the public street.
- c. Maximum building height: 24 feet with a maximum of 40 feet when the building includes a minimum roof pitch of 5:12 and the facade is detailed with a minimum 4-foot offset at least every 25 linear feet of building wall and a minimum 10-foot offset at least every 50 linear feet of building wall.
- d. Vehicular surface areas: Vehicular surface areas, even if located on a separate lot, shall be located behind the principle building. A vehicular surface area may be located at the side of a building if: 1) It does not extend in front of the building facade line; 2) For any lot with street frontage in excess of 100 feet, the linear frontage of vehicular surface area facing the street does not exceed 25% of the linear street frontage of the lot. Ramp type driveways shall be used to maintain a continuous sidewalk along the block face.

### 11. Oakwood Park Neighborhood

- a. Minimum lot size (residential): 6,000 square feet.
- b. Minimum lot width (residential): 55 feet.
- c. Maximum lot width (residential): 80 feet.

### 12. Oberlin Village Neighborhood

- a. Minimum lot size: 5,000 square feet.
- b. Maximum lot size: 12,500 square feet.
- c. Minimum lot width: 50 feet.
- d. Front yard setback: Within 10% of the median front yard setback established by buildings on the same side of the block face of the proposed building.

- e. Building entrance: All buildings shall have a minimum of 1 entrance facing the public street.
- f. Maximum building height: 25 feet or 2 stories.

### 13. Roylene Acres Neighborhood

- a. Minimum lot size: 20,000 square feet.
- b. Minimum lot frontage: 100 feet.
- c. Front yard setback: Minimum of 50 feet.
- d. Maximum building height: 30 feet and no greater than 2½ stories.

### 14. Runnymede Road Neighborhood

- a. Minimum lot size: 17,424 square feet.
- b. Minimum lot frontage: 100 feet.
- c. Front yard setback: Minimum of 30 feet.
- d. Maximum building height: 24 feet as measured at the 30-foot front yard setback line. Building height may be increased 1 foot of height for each 1 foot of increase in the front yard setback beyond 30 feet.

### 15. South Park Neighborhood

- a. Minimum lot size: 3,000 square feet.
- b. Maximum lot size: 8,000 square feet.
- c. Minimum lot width: 40 feet.
- d. Maximum lot width: 80 feet.
- e. Front yard setback: Within 10% of the average front yard setback established by buildings on the same side of the block face of the proposed building, but not less than 8 feet or greater than 30 feet.
- f. Building entrance: The main building entrance shall face the street from which the building is addressed. No upper story entrance shall be visible from an adjacent public street right-of-way.
- g. Maximum building height: 25 feet.
- h. Off-street parking: Parking shall be located to the side or rear of the building. With the exception of single-unit living, no parking areas shall be located in front of any principal building. Single-unit living parking shall be regulated according to Article 7.1.

#### **16. Trailwood Neighborhood**

- a. Minimum lot size: 20,000 square feet.
- b. Minimum lot frontage: 100 feet.
- c. Front yard setback: Minimum of 60 feet.
- d. Side yard setback: Minimum of 20 feet within the front 100 feet of the lot; otherwise, minimum of 10 feet.
- e. Maximum building height: 2½ stories and 30 feet from finished grade of the main entry floor.

#### **17. West Idlewild Neighborhood**

- a. Minimum lot size: 4,000 square feet.
- b. Minimum lot frontage: 30 feet .
- c. Front yard setback: Minimum of 10 feet; maximum of 25 feet.
- d. Side yard setback: Minimum of 0 feet when minimum building separation is met.
- e. Building separation: Minimum of 10 feet.
- f. Maximum building height: 35 feet.

## Article 5.5. Transit Overlays

### Sec. 5.5.1. Transit Overlay District (-TOD)

#### A. Base Standards Apply

Unless specifically set forth in this section, the allowed uses, the dimensional requirements, height limits and general development standards of the underlying zoning district apply.

#### B. Uses

The following uses are not allowed in a -TOD:

1. Single-unit living;
2. Two-unit living;
3. Cemetery;
4. Outdoor recreation;
5. Vehicle sales/rental;
6. Vehicle repair (major);
7. Vehicle repair (commercial vehicle);
8. Car wash; and
9. Drive-thru facility.

#### C. Frontages

The Parkway and Detached frontages are not allowed (see *Article 3.4. Frontage Requirements*).

#### D. Parking

Parking requirements for a -TOD are set forth in *Sec. 7.1.3.B*.

#### E. Outdoor Storage

Limited and general outdoor storage is not allowed (see *Article 7.5. Outdoor Display and Storage*).

#### F. Height

The minimum height of any principal building in the -TOD shall be 2 stories.

## Article 5.6. Parking Overlays

### Sec. 5.6.1. Special Residential Parking Overlay District (-SRPOD)

#### A. Base Standards Apply

Unless specifically set forth in this section, the allowed uses, the dimensional requirements, height limits and general development standards of the underlying zoning district apply.

#### B. Parking Surfaces

1. Vehicular surface areas located within the front yard area of a single-unit living in a detached house constructed after July 19, 2012 shall be constructed of permanent, nonerodible surface treatment, which may include porous and semi-porous monolithic or paver materials, masonry or concrete pavers, poured concrete and asphalt, or constructed with a minimum depth of 4 inches of crushed stone or crush and run.
2. The borders of any vehicular surface area constructed of crushed stone or crush and run shall be delineated with anchored man-made or natural landscape edging materials such that the vehicular surface area is clearly defined and helps to contain the crushed stone or crush and run.
3. Except for circular and semi-circular drives, vehicular surface areas located within the front yard area of a single-unit living in a detached house shall not be located in front of the dwelling's primary entrance.

#### C. Arrangement, Size and Orientation of Parking Areas

Vehicular surface areas located within the front yard area of single-unit living in a detached house shall comply with one of the following.

1. The linear depth of the front yard area multiplied by 12 feet plus 380 square feet or 40% of the front yard area, whichever is less.
2. A circular or semi-circular driveway, not to exceed a width of 12 feet, with no more than two access points on the premises and an additional 380 square feet, or 40% of the front yard area, whichever is less.

3. Vehicular surface areas lawfully existing prior to July 19, 2012 and are constructed of permanent, nonerodible surface treatment.
4. Erodible vehicular surface areas may be used for off-street parking without retrofitting to the standards of this overlay district when all of the following conditions are met.
  - a. Erodible vehicular surface areas exist in front yard areas prior to July 19, 2012 and such vehicular areas do not comply with *Sec. 5.6.1.C.1.* and *Sec. 5.6.1.C.2.* Notwithstanding the foregoing, a turn-around area no greater than 8 feet by 18 feet is allowed for any front yard vehicular surface area with access to a street with a posted speed limit of greater than 35 miles per hour.
  - b. Parking shall be limited to single-file, perpendicular to the street right-of-way in front of the existing curb-cut. The Zoning Enforcement Administrator is authorized to permit in writing angled parking for 1 vehicle or side by side parking for 2 vehicles only when all of the following conditions are present:
    - i. Existing man-made structures on the lot prevent the establishing of a parking area of at least 44 feet in length measured from the property side of an existing sidewalk, or in the absence of a sidewalk to the face of the curb or edge of street pavement.
    - ii. The vehicular surface areas do not exceed the limits of this subsection.
    - iii. Cars are angled with headlights toward the building on the lot and do not extend 10 feet beyond the face of the adjoining car, which is parked perpendicular to the street.
5. No vehicle shall be parked or stored outside of the vehicular surface areas described above within the front yard area with the exception of temporary parking under *Sec. 5.6.1.E.* and vehicles actively and continuously being unloaded, loaded, washed or repaired. For purposes of this provision, vehicle shall include, but not be limited to, passenger vehicle, truck, van, motorized recreation vehicle, motor vehicle as defined in N.C. Gen. Stat. Chapter 20, camper, golf cart, boat trailer, car trailer or other similar vehicle.

#### **D. Landscaping Requirements**

1. When vehicular surface areas are constructed in the front yard area of a single-unit living in a detached house and a parking space is designed to be within 45 degrees or less of the public street, a continuous berm or row of evergreen shrubs shall be provided within 5 feet of the edge of the parking space on the side nearest the public street in order to screen the broad side of the parked vehicle from view of the public street.
2. Berms shall have a minimum height of 1½ feet and a minimum crown width of 2 feet and a side slope of no greater than two-to-one, and shall be planted and covered with live vegetation.
3. Evergreen shrubs installed to satisfy the requirements of this subsection shall be a locally-adapted species expected to reach a minimum height of 36 inches and a minimum spread of 36 inches within 2 years of planting.
4. All shrubs shall be a minimum 24 inches tall when planted and shall be planted a maximum distance between shrubs of 5 feet on center. Shrubs planted on berms may have a lesser mature height provided that the combined height of the berm and the plantings after 2 years are at least 36 inches high.

#### **E. Temporary Parking**

The property owner may apply for a zoning permit to allow temporary parking in the front yard area on grass or surfaces other than the grass or other erodible minimum surfacing requirements. This permit shall be issued to the property owner once in any 3-year period per premise basis, shall not exceed an initial period of 90 days and may be extended by the Planning and Development Officer for additional periods of 30 days.

#### **F. Locational Guidelines**

The general characteristics desired of the land placed in the Special Residential Parking Overlay District are the following:

1. At least 75% of the land within the district is developed.
2. The district contains at least 15 contiguous acres. Public and Institutional uses and outdoor recreation may be included within the boundaries of a Special Residential Parking Overlay District; however, such uses shall not be included within the calculation for establishing the minimum 15 acre requirement.

*PAGE INTENTIONALLY LEFT BLANK*

# CHAPTER 6. USE REGULATIONS

## Article 6.1. Allowed Uses 6 – 2

Sec. 6.1.1. Classification of Uses.....	6 – 2
Sec. 6.1.2. Use Determination.....	6 – 2
Sec. 6.1.3. Key to Use Table.....	6 – 2
Sec. 6.1.4. Allowed Principal Use Table.....	6 – 3
Sec. 6.1.5. Prohibited Uses.....	6 – 7

## Article 6.2. Residential Uses 6 – 8

Sec. 6.2.1. Household Living.....	6 – 8
Sec. 6.2.2. Group Living.....	6 – 10
Sec. 6.2.3. Social Service.....	6 – 11

## Article 6.3. Public & Institutional Uses 6 – 13

Sec. 6.3.1. Civic.....	6 – 13
Sec. 6.3.2. Parks, Open Space and Greenways.....	6 – 14
Sec. 6.3.3. Utilities.....	6 – 14

## Article 6.4. Commercial Uses 6 – 19

Sec. 6.4.1. Day Care.....	6 – 19
Sec. 6.4.2. Indoor Recreation.....	6 – 20
Sec. 6.4.3. Medical.....	6 – 21
Sec. 6.4.4. Office.....	6 – 21
Sec. 6.4.5. Outdoor Recreation.....	6 – 22
Sec. 6.4.6. Overnight Lodging.....	6 – 23
Sec. 6.4.7. Parking.....	6 – 24
Sec. 6.4.8. Passenger Terminal.....	6 – 24
Sec. 6.4.9. Personal Service.....	6 – 25

Sec. 6.4.10. Restaurant/Bar.....	6 – 27
Sec. 6.4.11. Retail Sales.....	6 – 29
Sec. 6.4.12. Vehicle Sales/Rental.....	6 – 30

## Article 6.5. Industrial Uses 6 – 31

Sec. 6.5.1. Heavy Industrial.....	6 – 31
Sec. 6.5.2. Light Industrial.....	6 – 31
Sec. 6.5.3. Light Manufacturing.....	6 – 32
Sec. 6.5.4. Research & Development.....	6 – 32
Sec. 6.5.5. Self-Service Storage.....	6 – 32
Sec. 6.5.6. Vehicle Service.....	6 – 33
Sec. 6.5.7. Warehouse & Distribution.....	6 – 35
Sec. 6.5.8. Waste-Related Service.....	6 – 35
Sec. 6.5.9. Wholesale Trade.....	6 – 35

## Article 6.6. Open Uses 6 – 36

Sec. 6.6.1. Agriculture.....	6 – 36
Sec. 6.6.2. Resource Extraction.....	6 – 37

## Article 6.7. Accessory Uses & Structures 6 – 39

Sec. 6.7.1. In General.....	6 – 39
Sec. 6.7.2. Accessory Structures.....	6 – 39
Sec. 6.7.3. Additional Standards for Specific Accessory Uses.....	6 – 39

## Article 6.8. Temporary Uses 6 – 43

Sec. 6.8.1. Applicability.....	6 – 43
Sec. 6.8.2. Temporary Use Permit Required.....	6 – 43

## Article 6.1. Allowed Uses

### Sec. 6.1.1. Classification of Uses

#### A. Use Categories

1. In order to regulate use, categories of uses have been established. Use categories provide a systematic basis for assigning land uses to appropriate categories with other similar uses. Use categories classify land uses and activities based on common functional, product or physical characteristics.
2. Characteristics include the type and amount of activity, the hours of operation, the type of customers or residents, how goods or services are sold or delivered, likely impact on surrounding properties and site conditions.
3. Use category definitions are included in *Article 6.2. Residential Uses* through *Article 6.6. Open Uses*.
4. Where a use category contains a list of included uses, the list is to be considered example uses, and not all-inclusive. The Zoning Enforcement Administrator has the responsibility for categorizing all uses.

#### B. Principal Uses

Allowed principal uses by district are listed in *Sec. 6.1.4*. Principal uses are grouped into categories of uses.

#### C. Accessory Uses

Accessory uses are allowed in conjunction with a permitted principal use as set forth in *Article 6.7. Accessory Uses & Structures*.

#### D. Temporary Uses

Temporary uses are allowed as set forth in *Article 6.8. Temporary Uses*.

### Sec. 6.1.2. Use Determination

#### A. Interpretation by the Zoning Enforcement Administrator

The Zoning Enforcement Administrator is responsible for categorizing all uses. If a proposed use is not listed in a use category, but is similar to a listed use, the Zoning Enforcement Administrator may consider the proposed use part of that use category. When determining whether a proposed use is similar to a listed use, the Zoning Enforcement Administrator will consider the following criteria:

1. The actual or projected characteristics of the proposed use;
2. The relative amount of site area or floor area and equipment devoted to the proposed use;

3. Relative amounts of sales;
4. The customer type;
5. The relative number of employees;
6. Hours of operation;
7. Building and site arrangement;
8. Types of vehicles used and their parking requirements;
9. The number of vehicle trips generated;
10. Signs;
11. How the proposed use is advertised;
12. The likely impact on surrounding properties; and
13. Whether the activity is likely to be found independent of the other activities on the site.

#### B. Uses Not Specifically Listed

A use not specifically listed is prohibited unless the Zoning Enforcement Administrator determines the use to be part of a use category as described in *Sec. 6.1.1.A*.

#### C. Zoning Enforcement Administrator Action

Following a determination by the Zoning Enforcement Administrator, a written record shall be kept by Planning and Development (see *Sec. 10.2.14.*).

### Sec. 6.1.3. Key to Use Table

The allowed use table in *Sec. 6.1.4*. identifies uses permitted in each zoning district. The use table key is set forth below.

#### A. Permitted Use (P)

Indicates that the use is permitted by right in the district.

#### B. Limited Use (L)

Indicates that the use, while allowed by right in the district, must meet the use standards associated with the specific use (see right-hand column for definitions/use standards).

#### C. Special Use (S)

Indicates that the use requires approval by the Board of Adjustment as a special use (see *Sec. 10.2.9.*) before it is allowed in the district. Use standards associated with the specific use may also apply.

#### D. Use Not Permitted (--)

Indicates that a use is not permitted.

### Sec. 6.1.4. Allowed Principal Use Table

USE CATEGORY Specific Use	RESIDENTIAL					MIXED USE							SPECIAL					Definition/ Use Standards
	R-1	R-2	R-4	R-6	R-10	RX-	OP-	OX-	NX-	CX-	DX-	IX-	CM	AP	IH	MH	CMP	
<b>RESIDENTIAL</b>																		
HOUSEHOLD LIVING, AS LISTED BELOW:																		
Single-unit living	P	P	P	P	P	P	--	P	P	P	P	--	--	P	--	--	P	
Two-unit living	--	L	L	P	P	P	--	P	P	P	P	--	--	--	--	--	P	
Multi-unit living	--	--	L	L	P	P	--	P	P	P	P	L	--	--	--	--	P	
Cottage court	--	L	L	P	P	P	--	P	P	P	--	--	--	--	--	--	--	
Conservation development	P	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	
Compact development	P	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	
Manufactured home development	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	L	--	
Multi-unit supportive housing residence	L	L	L	L	L	L	--	L	L	L	L	L	--	L	--	--	L	
Supportive housing residence	L	L	L	L	L	L	--	L	L	L	L	L	--	L	--	--	L	
GROUP LIVING, EXCEPT AS LISTED BELOW	S	S	S	S	S	P	--	P	P	P	P	P	--	--	--	--	P	
Boardinghouse	--	--	--	--	S	L	--	L	L	L	L	--	--	--	--	--	L	
Congregate care	S	S	S	S	L	L	--	L	L	L	L	L	--	--	--	--	L	
Dormitory, fraternity, sorority	--	--	--	--	--	P	--	P	--	P	P	P	--	--	--	--	P	
Life care community	S	S	S	S	S	S	--	L	L	L	L	L	--	--	--	--	S	
Rest home	S	S	S	L	L	P	--	P	P	P	P	P	--	--	--	--	P	
SOCIAL SERVICE, AS LISTED BELOW:																		
Emergency shelter type A	--	--	--	--	--	--	--	S	--	S	S	S	--	--	L	--	--	
Emergency shelter type B	--	--	--	--	--	L	--	L	--	L	L	L	--	--	L	--	--	
Special care facility	S	S	S	S	S	S	L	L	L	L	L	L	--	--	L	--	L	

Key: P = Permitted Use L = Limited Use S = Special Use -- = Use Not Permitted

USE CATEGORY Specific Use	RESIDENTIAL					MIXED USE							SPECIAL					Definition/ Use Standards
	R-1	R-2	R-4	R-6	R-10	RX-	OP-	OX-	NX-	CX-	DX-	IX-	CM	AP	IH	MH	CMP	
<b>PUBLIC &amp; INSTITUTIONAL</b>																		
CIVIC, EXCEPT AS LISTED BELOW:	L	L	L	L	L	P	P	P	P	P	P	P	--	P	P	--	P	Sec. 6.3.1.A. & E.
Cemetery	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	--	L	Sec. 6.3.1.B.
College, community college, university	--	--	--	--	--	--	P	P	--	P	P	P	--	--	--	--	P	Sec. 6.3.1.C.
School, public or private (K-12)	L	L	L	L	L	L	L	L	L	L	L	L	--	L	--	--	L	Sec. 6.3.1.D.
PARKS, OPEN SPACE AND GREENWAYS	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.2.A.
MINOR UTILITIES	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.3.A.
MAJOR UTILITIES, EXCEPT AS LISTED BELOW	--	--	--	--	--	--	--	--	--	--	--	S	--	--	S	--	--	Sec. 6.3.3.B.
Telecommunication tower (<250 ft)	L	L	L	L	L	L	L	L	L	L	L	L	--	L	L	L	L	Sec. 6.3.3.C.
Telecommunication tower (≥250 ft)	S	S	S	S	S	S	S	S	S	S	S	S	--	S	S	S	S	Sec. 6.3.3.D.
<b>COMMERCIAL</b>																		
DAY CARE, AS LISTED BELOW:																		Sec. 6.4.1.A.
Day care, home	L	L	L	L	L	L	--	L	L	L	L	L	--	L	--	L	L	Sec. 6.4.1.B.
Day care center	S	S	S	S	S	S	L	L	L	L	L	L	--	--	--	S	L	Sec. 6.4.1.C.
INDOOR RECREATION, EXCEPT AS LISTED BELOW:	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	P	Sec. 6.4.2.A.
Adult establishment	--	--	--	--	--	--	--	--	--	S	S	S	--	--	S	--	--	Sec. 6.4.2.B.
Health club	--	--	--	--	--	L	P	P	P	P	P	P	--	--	--	--	--	Sec. 6.4.2.C.
Sports academy	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	Sec. 6.4.2.D.
MEDICAL	--	--	--	--	--	L	P	P	P	P	P	P	--	--	--	--	P	Sec. 6.4.3.A. & B.
OFFICE	--	--	--	--	--	L	P	P	P	P	P	P	--	--	--	--	P	Sec. 6.4.4.A. & B.
OUTDOOR RECREATION, EXCEPT AS LISTED BELOW:	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	P	Sec. 6.4.5.A.
Golf course	L	L	L	L	L	--	--	--	--	P	--	P	--	--	--	--	P	Sec. 6.4.5.B.
Outdoor sports or entertainment facility (≤250 seats)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	P	P	Sec. 6.4.5.C.
Outdoor sports or entertainment facility (>250 seats)	S	S	S	S	S	S	S	S	S	S	S	S	--	S	S	S	S	Sec. 6.4.5.C.
Riding stables	L	--	--	--	--	--	--	--	--	--	--	L	--	L	--	--	--	Sec. 6.4.5.D.

Key: P = Permitted Use L = Limited Use S = Special Use -- = Use Not Permitted

USE CATEGORY Specific Use	RESIDENTIAL					MIXED USE							SPECIAL					Definition/ Use Standards
	R-1	R-2	R-4	R-6	R-10	RX-	OP-	OX-	NX-	CX-	DX-	IX-	CM	AP	IH	MH	CMP	
OVERNIGHT LODGING, EXCEPT AS LISTED BELOW:	--	--	--	--	--	--	S	S	--	P	P	P	--	--	--	--	P	Sec. 6.4.6.A.
Bed and breakfast	--	--	--	--	L	L	--	P	P	P	P	--	--	--	--	--	P	Sec. 6.4.6.B.
Hospitality house	--	--	--	--	L	P	--	P	--	P	P	P	--	--	--	--	P	Sec. 6.4.6.C.
PARKING, AS LISTED BELOW																		Sec. 6.4.7.A.
Commercial parking lot	--	--	--	--	--	--	--	P	P	P	P	P	--	--	P	--	P	Sec. 6.4.7.B.
Remote parking lot	S	S	S	S	S	L	L	L	S	L	L	L	--	--	L	--	L	Sec. 6.4.7.C.
PASSENGER TERMINAL , EXCEPT AS LISTED BELOW:	--	--	--	--	--	--	--	--	--	P	P	P	--	--	P	--	P	Sec. 6.4.8.A.
Airfield, landing strip	--	--	--	--	--	--	--	--	--	--	--	S	--	S	S	--	S	Sec. 6.4.8.B.
Heliport, serving hospitals	--	--	--	--	--	--	--	L	--	L	L	L	--	--	--	--	L	Sec. 6.4.8.C.
Heliport, all others	--	--	--	--	--	--	S	S	--	S	S	S	--	S	S	--	S	Sec. 6.4.8.D.
PERSONAL SERVICE, EXCEPT AS LISTED BELOW:	--	--	--	--	--	L	--	L	P	P	P	P	--	--	--	--	P	Sec. 6.4.9.A. & G.
Animal care (indoor)	--	--	--	--	--	--	--	--	L	L	L	L	--	L	L	--	L	Sec. 6.4.9.B.
Animal care (outdoor)	--	--	--	--	--	--	--	--	--	--	--	S	--	S	S	--	--	Sec. 6.4.9.C.
Beauty/hair salon	--	--	--	--	--	L	P	P	P	P	P	P	--	--	--	--	P	Sec. 6.4.9.D.
Copy center	--	--	--	--	--	L	P	P	P	P	P	P	--	--	--	--	P	Sec. 6.4.9.E.
Optometrist	--	--	--	--	--	L	P	P	P	P	P	P	--	--	--	--	P	Sec. 6.4.9.F.
RESTAURANT/BAR, AS LISTED BELOW:																		Sec. 6.4.10.A.
Bar, nightclub, tavern, lounge	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	Sec. 6.4.10.B.
Eating establishment	--	--	--	--	--	L	--	L	P	P	P	P	--	--	--	--	L	Sec. 6.4.10.C.
Food truck	--	--	--	--	--	--	--	L	--	L	L	L	--	--	L	--	L	Sec. 6.4.10.D.
RETAIL SALES, EXCEPT AS LISTED BELOW:	--	--	--	--	--	L	--	L	P	P	P	P	--	--	--	--	P	Sec. 6.4.11.A.& C.
Pawnshop	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	Sec. 6.4.11.B.
VEHICLE SALES/RENTAL	--	--	--	--	--	--	--	--	L	L	L	L	--	--	P	--	--	Sec. 6.4.12.A.& B.

Key: P = Permitted Use L = Limited Use S = Special Use -- = Use Not Permitted

USE CATEGORY Specific Use	RESIDENTIAL					MIXED USE							SPECIAL					Definition/ Use Standards
	R-1	R-2	R-4	R-6	R-10	RX-	OP-	OX-	NX-	CX-	DX-	IX-	CM	AP	IH	MH	CMP	
<b>INDUSTRIAL</b>																		
HEAVY INDUSTRIAL, EXCEPT AS LISTED BELOW:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Sec. 6.5.1.A.
Detention center, jail, prison							S	S	S	S	S	S			P			Sec. 6.5.1.B.
Towing yard for vehicles	--	--	--	--	--	--	--	--	--	--	--	--	--	--	S	--	--	Sec. 6.5.1.C.
LIGHT INDUSTRIAL	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	--	Sec. 6.5.2.A.
LIGHT MANUFACTURING	--	--	--	--	--	--	P	--	--	P	P	P	--	--	P	--	P	Sec. 6.5.3.A.
RESEARCH & DEVELOPMENT	--	--	--	--	--	--	P	P	--	P	P	P	--	--	P	--	P	Sec. 6.5.4.A.
SELF-SERVICE STORAGE	--	--	--	--	--	--	--	--	--	L	L	L	--	--	P	--	--	Sec. 6.5.5.A. & B.
VEHICLE SERVICE, AS LISTED BELOW:																		Sec. 6.5.6.A.
Car wash	--	--	--	--	--	--	--	--	--	L	--	L	--	--	P	--	--	Sec. 6.5.6.B.
Vehicle repair (minor)	--	--	--	--	--	--	--	--	L	L	L	P	--	--	P	--	--	Sec. 6.5.6.C.
Vehicle repair (major)	--	--	--	--	--	--	--	--	--	L	L	P	--	--	P	--	--	Sec. 6.5.6.D.
Vehicle repair (commercial vehicle)	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	--	Sec. 6.5.6.E.
WAREHOUSE & DISTRIBUTION	--	--	--	--	--	--	--	--	--	--	--	L	--	--	P	--	--	Sec. 6.5.7.A. & B.
WASTE-RELATED SERVICE	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Sec. 6.5.8.A.
WHOLESALE TRADE	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	--	Sec. 6.5.9.A.
<b>OPEN</b>																		
AGRICULTURE, EXCEPT AS LISTED BELOW:	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	Sec. 6.6.1.A.
Community garden	L	S	S	S	L	L	L	L	L	L	L	L	--	L	--	S	L	Sec. 6.6.1.B.
Plant nursery	S	--	--	--	--	--	--	P	P	P	P	P	--	L	--	--	--	Sec. 6.6.1.C.
Produce stand	L	L	L	L	L	L	L	L	L	L	L	L	--	L	L	L	L	Sec. 6.8.2.D.
Restricted agriculture	P	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	Sec. 6.6.1.D.
Urban farm	--	--	--	--	--	S	S	S	S	S	S	S	--	--	--	--	--	Sec. 6.6.1.E.
RESOURCE EXTRACTION	--	--	--	--	--	--	--	--	--	--	--	--	--	S	S	--	--	Sec. 6.6.2.A.

Key: P = Permitted Use L = Limited Use S = Special Use -- = Use Not Permitted

### Sec. 6.1.5. Prohibited Uses

Except for improvements made pursuant to *Chapter 8. Subdivision & Site Plan Standards* or use determinations made pursuant to *Sec. 6.1.2.*, any use not explicitly allowed as a permitted use by right, a limited use or a special use in the zoning district by the Allowed Principal Uses Table, *Sec. 6.1.4.*, is prohibited. The enumerations of prohibited uses below are expressly prohibited, but such enumeration shall not be deemed exclusive or all-inclusive. Prohibited uses include:

- A. Any use of prima fascia business, commercial, or industrial character not otherwise specifically allowed in an R-1, R-2, R-4, R-6, R-10, RX-, OP- or OX-district;
- B. Any use prohibited by an applicable conditional use zoning district;
- C. Any use prohibited by an applicable overlay zoning district;
- D. Manufactured home or travel trailer except in a -MH or allowed in a PD District;
- E. Open dump;
- F. School administrative personnel offices located outside a school in a Residential District;
- G. A sign not explicitly allowed in the zoning district by the table of Signs Allowed by Districts, *Sec. 7.3.2.* or signs erected in violation of *Article 7.3. Signs*; and
- H. Storage of 2 or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles except as temporarily allowed in towing yards for vehicles.

## Article 6.2. Residential Uses

### Sec. 6.2.1. Household Living

#### A. Household Living Use Category

Residential occupancy of a dwelling unit by a household. Household living includes the following uses.

1. Single-unit living, two-unit living, multi-unit living.
2. Cottage court.
3. Conservation development.
4. Compact development.
5. Manufactured home development.
6. Multi-unit supportive housing residence.
7. Supportive housing residence.

#### B. Single-Unit Living

##### 1. Defined

One dwelling unit in a single principal structure.

#### C. Two-Unit Living

##### 1. Defined

Two dwelling units in a single principal structure.

##### 2. Use Standards

Where two-unit living is allowed as a limited use, it is allowed only in a conservation development (see *Article 2.4. Conservation Development*).

#### D. Multi-Unit Living

##### 1. Defined

Three or more dwelling units in a single principal structure. Multiple principal buildings are allowed on the same lot.

#### 2. Use Standards

- a. In a Residential District where multi-unit living is allowed as a limited use, it is allowed only in a conservation development (see *Article 2.4. Conservation Development*).
- b. In an IX- District where multi-unit living is allowed as a limited use, it is allowed only in the upper stories of a building. A lobby or other entrance is allowed on the ground floor.

#### E. Cottage Court

##### 1. Defined

A group of small detached houses centered around a common open space or courtyard.

##### 2. Use Standards

Only permitted in the R-2 and R-4 districts in association with a Conservation Development or Compact Development.

#### F. Conservation Development

##### 1. Defined

A conservation development trades smaller lot sizes (with smaller setbacks) and additional density in exchange for protecting a significant amount of open space.

#### G. Compact Development

##### 1. Defined

A compact development permits a reduction in lot size for residential subdivisions in exchange for an increase in common open space. This allows for efficient residential subdivisions and ample amenity area for the residents.

## H. Manufactured Home Development

### 1. Defined

A site which contains or is intended for the long-term location of manufactured homes that may include services and facilities for the residents. Includes both manufactured home park (with leased or condominium spaces) and manufactured home subdivision (individually platted spaces).

### 2. Use Standards

Manufactured home developments must meet standards in *Article 4.5. Manufactured Housing (MH)*.

## I. Multi-Unit Supportive Housing Residence

### 1. Defined

A facility housing persons who are disabled emotionally, mentally or physically or otherwise possess a disability that is protected by the provisions of either the Americans with Disabilities Act 42 USC 12101 or N.C. Gen. Stat. Article 3, Chapter 168, along with support or supervisory personnel or family members who may reside, but are not required to reside, at the facility.

### 2. Use Standards

- a. Each multi-unit supportive housing residence must be composed of no less than 2 and no more than 4 attached dwelling units.
- b. The total number of individuals occupying a multi-unit supportive housing residence cannot exceed 6.
- c. Each multi-unit supportive housing residence must be treated for zoning purposes in the same manner as single-unit living, except parking must be provided in accordance with *Article 7.1. Parking*.
- d. No multi-unit supportive housing residence can be located within 300 feet of another multi-unit supportive housing residence or supportive housing residence (determined by a straight line from property line to property line).
- e. The multi-unit supportive housing residence must conform to one of the following:

- i. It is licensed by the federal or state government; or
  - ii. It is funded in part by a government grant or loan.
- f. Nothing in this section can prevent 4 or fewer persons with disabilities from occupying any lawful dwelling as a household.

## J. Supportive Housing Residence

### 1. Defined

A facility in which more than 4 unrelated persons may reside who are battered individuals, abused children, pregnant women and their children, runaway children, temporarily or permanently disabled mentally, emotionally or physically, individuals recovering from drug or alcohol abuse, and all other persons who possess a disability that is protected by the provisions of either the Americans with Disabilities Act 42 USC 12101 or N.C. Gen. Stat. Article 3, Chapter 168, along with family members and support and supervisory personnel.

### 2. Use Standards

- a. The total number of individuals occupying a supportive housing residence cannot exceed 12.
- b. A resident manager must reside permanently on the premise.
- c. No supportive housing residence can be located within 1,125 feet of another multi-unit supportive housing residence or supportive housing residence (determined by a straight line from property line to property line).
- d. The supportive housing residence must conform to one of the following:
  - i. It is licensed by the federal or state government; or
  - ii. It is funded in part by a government grant or loan.

## Sec. 6.2.2. Group Living

### A. Group Living Use Category

Residential occupancy of a structure by a group of people that does not meet the definition of household living. Generally, group living facilities have a common eating area for residents and residents may receive care or training. Group living includes the following uses.

1. Boardinghouse.
2. Congregate care.
3. Dormitory, fraternity, sorority.
4. Hospice.
5. Life care community.
6. Monastery, convent.
7. Orphanage.
8. Rest home.

### B. Boardinghouse

#### 1. Defined

A facility that contains individual rooms without cooking facilities that are rented to the general public to more than 4 unrelated persons. Includes rooming house, lodging house and tourist home.

#### 2. Use Standards

- a. The facility was constructed originally as a detached house.
- b. The total number of individuals occupying a boardinghouse is limited to 6.
- c. In a Residential District, there is no exterior advertising except 1 unlit announcement sign not to exceed 2 square feet in area.
- d. No boardinghouse can be located within 1,200 feet of another boardinghouse (determined by a straight line from property line to property line).

### C. Congregate Care

#### 1. Defined

A long-term care facility for elderly people who are able to get around on their own but who may need help with some daily activities and have staff on call. Includes assisted living and independent living.

#### 2. Use Standards

- a. The facility is limited in occupancy to persons 62 years or older, their spouses and their surviving spouses, except for rooms occupied by resident staff personnel performing duties directly related to the operation of the facility.
- b. In the R-6 and R-10 districts, a congregate care facility is allowed a number of rooming units equal to 2 times the density of the applicable district.
- c. Each rooming unit may be occupied by no more than 2 persons not related by blood, marriage or adoption.
- d. Facilities for resident managers or custodians providing administrative services and medical services for the exclusive use of the residents shall be located on site and open and staffed for at least 4 hours, one day a week.
- e. The facility must contain indoor shared food preparation service, common dining halls and common recreation rooms, for the exclusive use of all residents and their guests, and these facilities together shall total a minimum of 30 square feet per constructed rooming unit exclusive of circulation space. Common indoor social and related service facilities may also be part of the facility.
- f. Structures shall demonstrate a comprehensive pedestrian circulation plan, including internal accessible walkways, is submitted and approved with provisions for alternative transportation services for the residents of the facility. Alternative transportation services may include, but are not limited to, regularly scheduled or on-call van services, tram services and full bus service.

- g. Outdoor open space or park area must be provided at a minimum rate of the greater of either 10% of the land area of the facility or 218 square feet per rooming unit, excluding private drives and off-street parking areas. A majority of the open space or park area must be located no further than 300 feet from the controlled entranceway of the facility.

#### D. Dormitory, Fraternity, Sorority

##### 1. Defined

A social organization of students providing group living accommodations for a college or university.

#### E. Life Care Community

##### 1. Defined

Facility providing a continuum of residential and health care services to persons aged 62 years or older. Allows residents to continue living in the same complex as their housing and health care needs change. Life care communities may offer a variety of services such as congregate care, skilled nursing, health and wellness, recreational facilities, support services and entertainment and social uses, as well as offering a range of residential opportunities (apartments, townhouses, cottages).

##### 2. Use Standards

- a. The life care community and accessory facilities must be designed and used to serve its residents and their guests only.
- b. The life care community must be planned, developed and operated according to a unified plan under the direction of a single owner or agent for the owner.
- c. The minimum site size and density limits must be in accordance with Sec. 2.3.1. for a Residential District. There is no minimum size or density limitation in any other district.
- d. The life care community may provide individual dwelling units in any combination of residential building types or housing options as allowed in the respective zoning district under Article 2.3. Compact Development and Article 2.4. Conservation Development Option.

- e. If provided, a congregate care facility must meet the requirements under Sec. 6.2.2.C.
- f. If provided, a rest home must meet the requirements under Sec. 6.2.2.F.
- g. Additional facilities designed only to serve members of the life care community may include, but not be limited to, health and wellness, medical, recreation and support services such as a private chapel, bank, hairdressers, pharmacy, library and convenience shopping.
- h. A minimum of 30% of the total site area must be designated and maintained as common open space under Sec. 2.5.
- i. In a Residential District, A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting a residential use.

#### F. Rest Home

##### 1. Defined

A long-term care facility for individuals who need full-time assistance and supervision. The focus is on individuals who cannot live independently and require full-time nursing assistance, and on younger individuals who have physical or mental handicaps.

##### 2. Use Standards

The number of total occupants allowed is based on 4 persons being the equivalent of 1 dwelling unit. The number of occupants cannot exceed the equivalent number of units per acre allowed in the respective zoning district.

### Sec. 6.2.3. Social Service

#### A. Social Service Use Category

Facilities that provide treatment for psychiatric, alcohol or drug problems. Also includes facilities that provide transient housing related to social service programs. Social service includes the following uses.

- 1. Emergency Shelter Type A.
- 2. Emergency Shelter Type B.
- 3. Special care facility.

## B. Emergency Shelter Type A

### 1. Defined

A facility providing temporary sleeping facilities for displaced persons with no limit on the number of individuals accommodated.

### 2. Use Standards

- a. The shelter must provide a minimum of 50 square feet of sleeping space per person.
- b. An employee or volunteer must maintain continuous on-site supervision during hours of operation.
- c. No shelter can be located within 2,640 feet of another emergency shelter Type A or emergency shelter Type B (determined by a straight line from property line to property line).
- d. No emergency shelter Type A can be located within 300 feet of a supportive housing residence or multi-unit supportive housing residence (determined by a straight line from property line to property line). No later establishment of a supportive housing residence or multi-unit supportive housing residence closer than 300 feet to a previously permitted emergency shelter may be construed to create a nonconformity or illegality on the part of the existing emergency shelter.
- e. The shelter is not allowed in an Airport Overlay District.

## C. Emergency Shelter Type B

### 1. Defined

A facility providing temporary sleeping facilities for not more than 10 displaced persons at any one time.

### 2. Use Standards

- a. No individual shall remain in the facility longer than 30 consecutive days per calendar year. No individual shall be readmitted until at least 14 days have elapsed from their last residency at that shelter.
- b. No counseling or therapeutic activities may be conducted. Referral of residents to employment agencies and other personal service agencies shall not be deemed to be counseling.

- c. No shelter can be located within 2,640 feet of another emergency shelter Type B, or emergency shelter Type A (determined by a straight line from property line to property line).
- d. No emergency shelter Type B can be located within 300 feet of a supportive housing residence or multi-unit supportive housing residence (determined by a straight line from property line to property line). No later establishment of a supportive housing residence or multi-unit supportive housing residence closer than 300 feet to the previously permitted emergency shelter shall be construed to create a nonconformity or illegality on the part of the existing emergency shelter.
- e. The shelter is not allowed in an Airport Overlay District.

## D. Special Care Facility

### 1. Defined

A facility which provides psychosocial rehabilitation, skill development activities, educational services and pre-vocational training and transitional and supported employment services to individuals with severe and persistent mental illness. Includes a rehabilitative clinic and adult rehabilitation center.

### 2. Use Standards

- a. No special care facility can be located within 1,200 feet of another special care facility (determined by a straight line from property line to property line).
- b. To permit a special care facility in a Residential District, the following minimum lot areas per enrollee apply:
  - i. R-1, R-2, and R-4: 1,040 square feet;
  - ii. R-6: 640 square feet; and
  - iii. R-10: 240 square feet.
- c. In a Residential District, 1 unlit announcement sign not to exceed 2 square feet in area and 3½ feet in height is permitted.
- d. Only 1 vehicle used in connection with the special care facility may be parked or stored on the premises or residential street.

## Article 6.3. Public & Institutional Uses

### Sec. 6.3.1. Civic

#### A. Civic Use Category

Places of public assembly that provide ongoing governmental, life safety, educational and cultural services to the general public, as well as meeting areas for religious practice. Civic includes the following uses.

1. Cemetery.
2. College, community college, university.
3. Civic club.
4. Museum, library.
5. Places of worship including church, mosque, synagogue, temple.
6. Police, fire, EMS station.
7. School, public or private (K-12).

#### B. Cemetery

##### 1. Defined

A facility used for the permanent interment of humans or animals or their cremated remains. Includes mausoleum, columbarium, memorial park and pet cemetery.

##### 2. Use Standards

- a. If the cemetery exceeds 2 acres in size or is planned and phased to exceed 2 acres in size, it must comply with the City's public facility dedication and improvements requirements.
- b. If an existing cemetery increases the land area for cemetery use by one-half acre or more from its size that results in a cemetery greater than 2 acres in size, the cemetery must comply with the City's public facility dedication and improvements requirements.
- c. The cemetery use must take into account present and future public improvements, including those expressed in the Comprehensive Plan.
- d. No grave space, mausoleum, vault, crypt or columbarium shall be located within 40 feet of any street right-of-way (including existing

or proposed right-of-way) or thoroughfare designated on the Comprehensive Plan. The requirements of this subsection may be waived in whole or in part by the Planning and Development Officer if the Public Works Director certifies that the full 40-foot buffer will not be required for the construction of future public improvements.

#### C. College, Community College, University

##### 1. Defined

An institution of higher education, including general or liberal arts education, graduate level education and technical or professional training.

#### D. School, Public or Private (K-12)

##### 1. Defined

A public or private (including charter or religious) school at the primary, elementary, middle, junior high or high school level that provides basic academic education.

##### 2. Use Standards

- a. Meet the curricular teaching certification of instruction approved by the State Board of Education.
- b. Be located on a lot with a total area of 500 square feet area per enrolled pupil.
- c. Be located outside any Airport Overlay District or Primary Reservoir Watershed Protection Area.
- d. The additional traffic generated to and from the site during peak travel periods, combined with the background traffic volume traveling on the roadway would not reduce the roadway or nearby intersections' capacity below level-of-service "D," as defined in the Highway Capacity Manual, 1994.
- e. In a Residential District, a Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting any residential use.
- f. In a Residential District, a Type C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.

### E. Use Standards for All Other Civic Uses

A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting a residential use.

## Sec. 6.3.2. Parks, Open Space and Greenways

### A. Parks, Open Space and Greenways Use Category

Uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas and having few structures. Parks, open space and greenways includes the following uses.

1. Botanical garden, nature preserve, recreational trail, greenway.
2. Game preserve, wildlife management area, refuge, animal sanctuary.
3. Park, recreation field. A public park may contain civic uses such as a community center, museum or library.
4. Reservoir, control structure, water supply, water well.

## Sec. 6.3.3. Utilities

### A. Minor Utilities Use Category

#### 1. Defined

Public or private infrastructure serving a limited area with no on-site personnel. Minor utilities includes the following uses.

- a. On-site stormwater retention or detention facility.
- b. Neighborhood-serving cable, telephone, gas or electric facility.
- c. Sustainable energy system.
- d. Water and wastewater pump station or lift station.
- e. Electrical substation.
- f. Utility service.

### B. Major Utilities Use Category

#### 1. Defined

Public or private infrastructure serving the general community and possibly having on-site personnel. Major utilities includes the following uses.

- a. Aeration facility, artesian well.
- b. Electric or gas generation plant.
- c. Telecommunication tower.
- d. Water or sanitary sewer treatment plant.

### C. Telecommunication Tower (less than 250 feet)

#### 1. Defined

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers that is less than 250 feet in height. Does not include any structure erected solely for a residential, noncommercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

#### 2. Use Standards

- a. Radio or television or similar reception for adjoining properties will not be disturbed or diminished.
- b. The height of the tower cannot exceed 250 feet.
- c. The lighting of the tower cannot exceed the minimum standards of the Federal Aviation Administration for red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same may be amended.
- d. The minimum setback from the outside dimensions of the tower, not from guy anchors, and not located within the property of a civic use in a Residential District, are as follows:
  - i. Installation of a new tower where no tower is being replaced.
    - a) 20 feet from the property line of either any adjoining lot that is developed without a dwelling, congregate care facility or vacant lot located in a Mixed Use or Special district, unless increased by Sec. 6.3.3.C.2.d.i.b) and Sec. 6.3.3.C.2.d.i.c) below.
    - b) 200% of the tower height, unless the tower is constructed as a monopole in which case the minimum setback shall be 100% of the tower height, but no less than 50 feet from the property line of an abutting Residential District.

- c) 100% of the tower height from the property line of an abutting Mixed Use or Special district.
  - d) 20 feet from any public street.
  - e) The setbacks required by *Sec. 6.3.3.C.2.d.i.b)* and *Sec. 6.3.3.C.2.d.i.c)* above shall not be applicable to any residential dwelling that is not a permitted use in the district.
  - f) If a telecommunication tower is located on the property of a civic use in a Residential District, the setbacks in *Sec. 6.3.3.C.2.d.i.a)* through *Sec. 6.3.3.C.2.d.i.d)* above apply, except that in no case shall a tower be located less than 200% of the tower height to the property line of a lot developed with a dwelling, congregate care facility, or a vacant lot located in a Residential District, unless a protective yard is preserved or installed adjacent to the property line of a lot developed with a dwelling, congregate care facility or a vacant lot located in a Residential District. The protective yard shall be of a width equal to the tower height, and shall contain plantings meeting the minimum standards of a Type B1 or B2 transitional protective yard (see *Sec. 7.2.4.A.)* and *Sec. 6.3.3.C.2.d.ii.e)* below.
- ii. Installation of a new tower where an existing tower is being replaced.
- a) If one or more existing telecommunication towers is to be concurrently removed and replaced by a new tower, then the required setback exceeding 100 feet in *Sec. 6.3.3.C.2.d.i.b)* and *Sec. 6.3.3.C.2.d.i.c)* above may be reduced by 15% for each additional telecommunication user in excess of that of the existing tower. Evidence shall be presented by the applicant that each additional user will upon installation occupy the new tower.
  - b) The Board of Adjustment may grant a further reduction to the setbacks for the removal of an existing tower and replacement with a new tower with more telecommunications users in accordance with *Sec. 6.3.3.D.*
  - c) The base of the tower and each guy anchor are surrounded by a fence or wall at least 8 feet in height unless the tower and all guy anchors are mounted entirely on a building over 8 feet in height. Except for fence and wall entrances, all fences and walls shall be screened with plant material so that no more than  $\frac{2}{3}$  of the surface of the fence or wall is visible within 3 years after erection of the structure from a public street or from any adjoining lot which contains a dwelling, congregate care facility, or from any adjoining lot zoned a Residential District.
- d) The area adjoining street rights-of-way shall contain a Type C1 or C2 street protective yard (see *Sec. 7.2.4.B.)* installed parallel to the street right-of-way. No protective yard is required along street frontage located a distance from the tower of more than 200% of the tower height.
  - e) A protective yard that contains the same plantings required in a Type B1 or B2 transitional protective yard (see *Sec. 7.2.4.A.)* must be installed within all the yard areas required by *Sec. 6.3.3.C.2.d.i.b)* and *Sec. 6.3.3.C.2.d.i.c)*. The installation of any fence, wall, planting or berm shall not reduce or lessen this requirement.
  - f) The output power from the tower shall not exceed federally-approved levels for exposure to electronic magnetic force (EMF).
  - g) If determined by the City that the proposed tower is situated in a location which will benefit the City's telecommunication systems, then the tower shall be engineered and constructed to accommodate the additional telecommunication equipment beneficial to the public system.
  - h) The tower is either less than 100 feet in height or located no closer than 1,000 feet to a tower greater than 100 feet in height (determined by a straight line and not street distance).
  - i) If the tower is located within an Overlay District that restricts height, the tower cannot exceed the maximum building height allowed within the more restrictive zoning district.
  - j) No tower shall be approved unless evidence is presented that at least 1 telecommunication user upon installation will occupy the tower. If the tower is between 100 feet and 150 feet in height, the tower shall be engineered and constructed to accommodate a minimum of 2 telecommunication users. If the tower equals or exceeds 150 feet in height but is less than 180 feet in height, the tower shall be engineered and constructed to accommodate a minimum of 3 telecommunication users. If the tower equals or

exceeds 180 feet in height, but is less than 200 feet in height, the tower shall be engineered and constructed to accommodate a minimum of 4 telecommunication users. If the tower equals or exceeds 200 feet in height, the tower shall be engineered and constructed to accommodate a minimum of 5 telecommunication users.

- k) Unless enclosed by a closed fence at least 8 feet in height to totally obscure the building from view, the exterior appearance of all buildings located in a Residential District shall look like a residential dwelling, including without limitation, pitched roofs and frame or brick veneer construction. The closed fence shall be the same or compatible in terms of texture and quality with the material and color of the surrounding dwellings. For each potential telecommunication user to occupy the tower, there shall be a minimum of 600 square feet reserved on the plans for associated buildings and equipment, unless the applicant provides evidence that less space is necessary.
- l) Within 6 months after approval of a plot plan for the telecommunication tower, the tower must be installed and operational or the plot plan shall be void. No telecommunication tower approved prior to September 1, 2013, which is discontinued, unused or unoccupied by any telecommunication user for a continuous period 365 days or more shall be restarted, resumed or reoccupied without the prior approval of a new plot plan complying with the then applicable provisions.
- m) The applicant must provide evidence that the proposed tower meets Federal Aviation Administration requirements, and will be in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.
- n) For any telecommunication tower approved after September 1, 2013, that is discontinued, unused or unoccupied by the telecommunication user for a continuous period of 365 days or more, the tower shall be removed within 30 days of notification of the property owner by the Planning and Development Officer.

## D. Telecommunication Tower (250 feet and more)

### 1. Defined

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers that is 250 feet or more in height. It does not include any structure erected solely for a residential, noncommercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

### 2. Use Standards

- a. Radio or television or similar reception for adjoining properties cannot be disturbed or diminished.
- b. The height of the tower cannot exceed 510 feet.
- c. The lighting of the tower cannot exceed the minimum standards of the Federal Aviation Administration for red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same may be amended.
- d. The minimum setback from the outside dimensions of the tower, not from guy anchors, are as follows:
  - i. 20 feet from the property line of any adjoining lot or lot across a street that is vacant and zoned as a mixed use or special district or any adjoining lot or lot across a street that is developed without a dwelling or congregate care facility, unless increased by paragraphs *Sec. 6.3.3.D.2.d.ii.* or *Sec. 6.3.3.D.2.d.iii.* below.
  - ii. 100% of the tower height, but no less than 50 feet, from the property line of an abutting Residential District.
  - iii. 50% of the tower height from the property line of an abutting Mixed Use or Special district.
  - iv. The setbacks required by *Sec. 6.3.3.D.2.d.ii.* or *Sec. 6.3.3.D.2.d.iii.* above shall not be applicable to any residential dwelling that is not a permitted use in the zoning district.
  - v. If one or more existing telecommunications towers is to be removed concurrently and replaced by a new tower, then that portion of the required setback exceeding 100 feet in *Sec. 6.3.3.D.2.d.ii.* or *Sec.*

- 6.3.3.D.2.d.iii.* above may be reduced by 15% for each additional telecommunication user in excess of the existing tower.
- vi. For towers exceeding a height of 250 feet, or where one or more existing telecommunications towers is concurrently being removed and replaced with a new tower containing additional telecommunication users, this setback may be reduced by the Board of Adjustment. In the case of a replacement tower, the Board of Adjustment shall show that the lesser setback will reduce the number of towers in the area. In all cases, the Board of Adjustment shall also show that the lesser setback will not be injurious to property or improvements in the affected area. In no case shall the setback be reduced to less than 50% of the tower height.
  - e. The base of the tower and each guy anchor must be surrounded by a fence or wall at least 8 feet in height unless the tower and all guy anchors are mounted entirely on a building over 8 feet in height. Except for fence and wall entrances, all fences and walls shall be screened with plant material so that no more than  $\frac{2}{3}$  of the surface of the fence or wall is visible, within 3 years after erection of the structure, from a public street or from any adjoining lot which contains a dwelling, congregate care facility or is zoned a Residential District.
  - f. The area adjoining street rights-of-way shall contain a Type C1 or C2 street protective yard (see *Sec. 7.2.4.B.*) installed parallel to the street right-of-way. No protective yard is required along street frontage located a distance from the tower of more than 200% of tower height.
  - g. A protective yard that contains the same plantings required in a Type B1 or B2 transitional protective yard (see *Sec. 7.2.4.A.*) must be installed within all the yard areas required by *Sec. 6.3.3.D.2.d.ii.* or *Sec. 6.3.3.D.2.d.iii.* The installation of any fence, wall, planting or berm shall not reduce or lessen this requirement.
  - h. The output power from the tower shall not exceed federally approved levels for exposure to electronic magnetic force (EMF).
  - i. If determined by the City that the proposed tower is situated in a location which will benefit the City's telecommunication systems, then the tower shall be engineered and constructed to accommodate the additional telecommunication equipment beneficial to the public system.
  - j. If the proposed tower is located on property that is zoned a Residential District at the time of the special use hearing, the tower shall be either less than 75 feet in height or be located no closer than 1,500 feet to a tower greater than 75 feet in height which was constructed after September 1, 2013, (determined by a straight line and not street distance).
  - k. If the proposed tower is located on property that is zoned a mixed use or heavy industrial district at the time of the special use hearing, the tower shall be either less than 100 feet in height or be located no closer than 1,000 feet to a tower greater than 100 feet in height which was constructed after September 1, 2013, (determined by a straight line and not street distance).
  - l. The Board of Adjustment may approve the construction of a tower which does not meet the above standards if evidence is provided which demonstrates that reasonable effort has been made to lease space on an existing tower or that no existing tower will technically satisfy the applicant's specific needs.
  - m. If the tower is located within an Overlay District that restricts height, the tower cannot exceed the maximum building height allowed within the more restrictive zoning district.
  - n. The tower shall be engineered and constructed to accommodate a minimum of 5 telecommunication users.
  - o. Unless enclosed by a closed fence at least 8 feet in height, the exterior appearance of all buildings located in a Residential District shall look like a residential dwelling, including without limitation, pitched roofs and frame or brick veneer construction. For each potential telecommunication user to occupy the tower, there shall be a minimum of 600 square feet reserved on the plans for associated buildings and equipment, unless the applicant provides evidence that less space is necessary.

- p. The applicant must provide evidence that the proposed tower meets Federal Aviation Administration requirements, and will be in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.
- q. Associated buildings located in any Residential District may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- r. The use will not be injurious to property or improvements in the affected area.
- s. Unless otherwise specified by this permit, that within one year of approval of the special use permit, a grading permit, building permit or zoning permit is obtained, and the tower is installed and operational, or the special use permit shall be void.
- t. For any telecommunication tower approved after September 1, 2013, which is discontinued, unused, or unoccupied by the telecommunication user for a continuous period of 365 days or more, the tower shall be removed within 30 days of notification by the Planning and Development Officer.

## Article 6.4. Commercial Uses

### Sec. 6.4.1. Day Care

#### A. Day Care Use Category

A facility providing care, protection and supervision of children or adults on a regular basis away from their primary residence. Care is typically provided to a given individual for fewer than 18 hours each day, although the facility may be open 24 hours each day. Day care includes the following uses.

1. Day care, home.
2. Day care center.

#### B. Day Care, Home

##### 1. Defined

A day care for a maximum of 8 persons in the residence of the provider.

##### 2. Use Standards

- a. The day care must be carried on by a resident of the structure as either a sole proprietorship or a corporation that is wholly owned by the residents of the structure or a partnership where all partners are residents of the structure.
- b. The use of any accessory building or accessory structure for a day care is not allowed.
- c. Any outdoor play equipment stored throughout the day and night shall not be permitted in the front yard area and can be located no closer than 15 feet from any adjoining lot containing a dwelling.
- d. No person, other than members of the family residing on the premises, shall be engaged or employed. This shall not apply to a substitute non-resident person providing care on the premise while the owner/operator is sick or otherwise unable to provide care.
- e. No more than 8 persons shall be cared for at any given time.
- f. Must comply with all state and local standards.

#### C. Day Care Center

##### 1. Defined

A day care for more than 8 persons where staffing complies with state and local regulations. Includes nursery school and preschool.

##### 2. Use Standards

- a. In a Residential District, the following minimum lot areas per enrollee apply:
  - i. R-1, R-2, and R-4: 1,040 square feet;
  - ii. R-6: 640 square feet; and
  - iii. R-10: 240 square feet.
- b. In a Residential District, 1 unlit announcement sign is allowed, not to exceed 2 square feet in area and 3½ feet in height.
- c. In a Residential District, a Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along any side of the property abutting a residential use.
- d. In a Residential District, a Type C2 street protective yard (see *Sec. 7.2.4.B.*) must be established along all property lines abutting a public right-of-way.
- e. Must comply with all state and local standards.

## Sec. 6.4.2. Indoor Recreation

### A. Indoor Recreation Use Category

Commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting. Indoor recreation includes the following uses.

1. Adult establishment.
2. Amusement center, game arcade, children's amusement center.
3. Billiard hall, pool hall.
4. Bingo parlor.
5. Bowling alley.
6. Convention center, arena.
7. Dance, martial arts, music studio or classroom.
8. Health club.
9. Shooting range.
10. Sports academy.
11. Miniature golf facility.
12. Motor track.
13. Movie theater or other indoor theater.
14. Skating rink.

### B. Adult Establishment

#### 1. Defined

Adult cabarets, adult media centers, sadomasochism centers, and any place contained in N.C. Gen. Stat. §14-202-10(b), excluding masseurs.

#### 2. Use Standards

- a. Except for permitted on-premise and off-premise signs, advertisements, displays or other promotional materials shall not be visible to the public from pedestrian sidewalks or walkways.
- b. An adult establishment cannot be located within 2,000 feet of another adult establishment (determined by a straight line from property line

to property line). Adult establishments because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods, particularly when they are concentrated. Special regulation of these establishments is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. To prevent an over concentration of adult establishments and the creation of a de facto downgrading or blighting of surrounding neighborhoods; this spacing requirement is necessary, unless otherwise determined under *Sec. 6.4.2.B.2.d.* below.

- c. An adult establishment cannot be located within 2,000 feet of a preexisting place of worship, public or private school, day-care facility, or any R-, RX-, OP, OX-, NX-, R-MP, or CMP district (determined by a straight line from property line to property line or district boundary line). Adult establishments, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when they are located near a Residential District or certain other districts which permit residential uses. Special regulation of these establishments is necessary to ensure that these adverse effects will not contribute to a downgrading or blighting of surrounding Residential Districts or certain other districts which permit residential uses, unless otherwise, determined by *Sec. 6.4.2.B.2.d.* below.
- d. The Board of Adjustment may vary the spacing requirements in *Sec. 6.4.2.B.2.b.* and *Sec. 6.4.2.B.2.c.* above when it finds that:
  - i. Practical difficulties or unnecessary hardships would result from the strict enforcement of the radius requirements.
  - ii. The proposed use will not be injurious to property or improvements in the affected area.
  - iii. The proposed use will not enlarge or encourage the development of a "skid row" area.
  - iv. The permitting of an adult establishment in the area will not be contrary to any governmental program of neighborhood conservation, rehabilitation, improvement or revitalization.
  - v. All other applicable provisions of this Chapter will be observed.
  - vi. The proposed use will not adversely impact public services and facilities such as parking, traffic, police, and that the secondary

effects of such uses will not adversely impact on adjacent properties. The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.

- e. When determining preponderance of adult materials, only those objects which have equal access and visibility shall be considered.

### C. Health Club

#### 1. Defined

A facility with equipment for exercising and improving physical fitness.

#### 2. Use Standards

A health club in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
- b. The unit cannot exceed 4,000 square feet in gross floor area; and
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

### D. Sports Academy

#### 1. Defined

A facility for sports education or instruction.

## Sec. 6.4.3. Medical

### A. Medical Use Category

A facility providing medical or surgical care to patients. Some facilities may offer overnight care. Medical includes the following uses.

1. Ambulatory surgical center.
2. Blood plasma donation center, medical or dental laboratory.
3. Hospital, urgent care, emergency medical office.
4. Medical, dental office or chiropractor, osteopath, physician, medical practitioner.
5. Medical clinic.
6. Medical day care.
7. Student infirmary.

### B. Use Standards

A medical facility in an RX- District is subject to the following:

1. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
2. The unit cannot exceed 4,000 square feet in gross floor area;
3. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries; and
4. Drive-thru or drive-in facilities are not permitted.

## Sec. 6.4.4. Office

### A. Office Use Category

Activities conducted in an office setting and generally focusing on business, professional or financial services. Office includes the following:

1. Business services including, but not limited to, advertising, business management consulting, data processing or collection agency.
2. Professional services including, but not limited to, lawyer, accountant, bookkeeper, engineer, architect, sales office or travel agency.
3. Financial services including but not limited to, lender, investment or brokerage house, bank, call center, bail bonds, insurance adjuster, real estate or insurance agent or mortgage agent.
4. Charitable institution (not providing housing or shelter).
5. Counseling in an office setting.
6. City, county, state, federal government office.
7. Radio, TV or recording studio, utility office.
8. Trade, vocational, business school.

### B. Use Standards

An office in an RX- District is subject to the following:

1. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
2. The unit cannot exceed 4,000 square feet in gross floor area;
3. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries; and
4. Drive-thru or drive-in facilities are not permitted.

## Sec. 6.4.5. Outdoor Recreation

### A. Outdoor Recreation Use Category

Uses, varying in size, providing daily or regularly scheduled recreation-oriented activities. Activities take place predominately outdoors or within outdoor structures. Outdoor recreation includes the following uses.

1. Drive-in theater.
2. Camp, campground, travel trailer park, recreational vehicle park.
3. Extreme sports facility such as paintball, BMX or skateboarding.
4. Golf course.
5. Outdoor commercial activity such as batting cage, golf driving range, amusement park, miniature golf facility, water park.
6. Outdoor theater.
7. Outdoor sports or entertainment facility.
8. Riding stable.
9. Shooting range.
10. Racetrack.
11. Sports academy for active recreational or competitive sports.
12. Stadium, arena.

### B. Golf Course

#### 1. Defined

A facility consisting of a large landscaped area for playing golf. Includes executive or par 3 golf course and support facilities such as a country club, clubhouse and driving range.

#### 2. Use Standards

A golf course in a Residential District is subject to the following:

- a. Only the sale of merchandise associated with the golf course is permitted. No merchandise or advertisement shall be visible from the public right-of-way; and

- b. There shall be no external advertising or identification in any manner, except for tract identification sign that does not exceed the standards of Sec. 7.3.11.

### C. Outdoor Sports or Entertainment Facility

#### 1. Defined

A predominantly outdoor facility, including any associated structures, for playing sports and conducting entertainment, including but not limited to, sports fields with or without seating, stadiums, track and field facilities and amphitheatres.

#### 2. Use Standards

- a. The facility and activities requested to be conducted will not have a substantial adverse impact on surrounding properties; including without limitation, stormwater, dust, smoke or vibration.
- b. The practical limits of public facilities and services such as stormwater, water and sewer lines, streets, fire, public safety, trash collection and recyclable material are not exceeded.
- c. The traffic generated to and from the site will not create unsafe or inefficient parking, loading, vehicular and pedestrian circulation patterns with consideration, among other things, to: the physical character of roads, the classification of roads, accident experience near the site, traffic volumes existing and projected from approved site plans and subdivisions, interference with any other driveway, and response time of nearby emergency services such as fire and hospital.
- d. Buffers must be provided that lessen the perceived height and bulk of proposed structures as seen from nearby residential neighborhoods.
- e. The nearby properties must be protected from sound amplification and lighting.
- f. The facility will not be injurious to property or improvements in the affected area.
- g. The site is not located in a Primary Watershed Protection Area.

## D. Riding Stables

### 1. Defined

A facility for the boarding and riding of horses. Includes riding academy and equestrian center.

### 2. Use Standards

- a. No part of any building or structure in which animals are housed shall be closer than 200 feet from any existing residential use, except for property owned or occupied by an owner or operator of the riding stable.
- b. All horses connected with the riding stable shall be enclosed by fencing so that horses cannot run at large.
- c. Only 1 horse may be kept on a lot less than 1 acre in size. For lots from 1 to 5 acres in size, a maximum of 3 horses per acre may be kept. For lots greater than 5 acres, up to 10 horses per acre maybe boarded if the setbacks listed in *Sec. 6.4.5.D.2.d.* below are increased to 200 feet from the property line.
- d. Buildings, stables and riding rings may not be placed closer than 50 feet to any property line. However, the main manure storage area shall be no closer than 150 feet to any property line.
- e. In the R-1 and AP districts, there shall be no on-premise external advertising or identification in any manner, except for 1 unlit announcement sign not exceeding 9 square feet in area and 3½ feet in height.

## Sec. 6.4.6. Overnight Lodging

### A. Overnight Lodging Use Category

Accommodations arranged for short term stays. Overnight lodging includes the following uses.

1. Bed and breakfast.
2. Hospitality house.
3. Hotel, motel, inn.
4. Youth hostel.

## B. Bed and Breakfast

### 1. Defined

A detached house or other structure constructed for a use permitted within the district that has no more than 5 guest rooms. Breakfast is customarily served to guests.

### 2. Use Standards

- a. The facility is located within one or more of the following:
  - i. A General Historic Overlay District or Streetside Historic Overlay District;
  - ii. A property designated as a Historic Landmark;
  - iii. A property listed on the National Register of Historic Places; or
  - iv. A property identified as a contributing structure within a National Register Historic District, as defined in the Code of Federal Regulations, as amended.
- b. The use is located in a structure originally constructed as a detached house.
- c. In R-10, no exterior advertising is allowed except a small unlit announcement sign not to exceed 2 square feet in area and 3½ feet in height.
- d. In R-10, special events such as wedding receptions are not permitted.

## C. Hospitality House

### 1. Defined

A detached house associated with a hospital or similar long-term stay facility that provides overnight lodging for families of patients.

### 2. Use Standards

A hospitality house in an R-10 District is subject to the following:

- a. Must be associated with a serving hospitals licensed by the State of North Carolina pursuant to N.C.Gen.Stat. §131E-176 et seq;
- b. Must be located within one-half mile of the associated hospital (determined by a straight line from property line to property line);

- c. Contains rooms without individual cooking facilities for lodging of visitors but not for rent to the general public;
- d. Provides a maximum of 6 bedrooms with a maximum occupancy of 12 persons; and
- e. Complies with standards for a detached house.

#### D. Hotel, Motel, Inn

##### 1. Defined

A facility that contains one or more rooms for overnight guests containing registration facilities, on-site management, cleaning services and combined utilities.

##### 2. Use Standards

In the OP- and OX- districts, the minimum lot size for a hotel, motel, inn is 2½ acres.

### Sec. 6.4.7. Parking

#### A. Parking Use Category

Facilities that provide parking as a principal use. Includes commercial parking and remote parking.

#### B. Commercial Parking Facility

##### 1. Defined

A facility that provides parking as a principal use on the site. A fee may or may not be charged.

#### C. Remote Parking Facility

##### 1. Defined

A facility that provides parking as a principal use that is used to meet the off-site parking provisions of *Sec. 7.1.2.C.* for a permitted principal use within the same the zoning district.

##### 2. Use Standards

- a. The remote parking lot must be located within the specified distance of the principal use served as set forth in *Sec. 7.1.5.B.*

- b. The remote parking lot must be located completely within the same contiguous zoning district as the principal use served.
- c. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along any side of the property abutting a residential use.
- d. In an R-1, R-2, R-4, R-6, R-10 or R-X district, a fee may not be charged.

### Sec. 6.4.8. Passenger Terminal

#### A. Passenger Terminal Use Category

Facilities for the takeoff and landing of planes and helicopters, and facilities for trains, buses, taxis or limo services. Passenger terminal includes the following uses.

- 1. Airport.
- 2. Airfield, landing strip.
- 3. Bus passenger terminal, multi-modal facility.
- 4. Heliport.
- 5. Railroad station.
- 6. Taxi dispatch center, limousine service.

#### B. Airfield, Landing Strip

##### 1. Defined

Facility for the taking off and landing of aeroplanes. Does not include accommodations for passengers.

##### 2. Use Standards

- a. Design standards for an airfield shall be in accordance with Federal Aviation Administration requirements.
- b. The length of the clear zone to be controlled and maintained by the airfield (no buildings allowed) such that future construction is prohibited is 1,000 feet.
- c. There shall be a planted area at least 25 feet wide on both sides of the landing strip, provided and maintained by the airfield owner in such a manner as to minimize noise, dust and hazard from the field, in areas where in the opinion of the Board of Adjustment such protection is found to be desirable.

- d. The area shall be fenced to prevent trespassing by animals or unauthorized persons.
- e. Except in areas properly zoned for such uses, there shall be no business, repair or advertisement, except for the sale of gasoline to the planes based at the field.

### C. Heliport, Serving Hospitals

#### 1. Defined

Facility for the taking off and landing of helicopters serving hospitals licensed by the State of North Carolina pursuant to N.C.Gen.Stat. §131E-176 et seq. that operate acute care beds as defined by 10A N.C.A.C. 14C.3801 as an accessory use.

#### 2. Use Standards

- a. The heliport is used only for emergency medical purposes.
- b. Design standards for a heliport shall be in accordance with Federal Aviation Administration requirements.
- c. Proof of Air Space Clearance from the Federal Aviation Agency is required prior to the issuance of a certificate of occupancy or zoning permit.
- d. Evergreen shrub plantings adjacent to the security fence surrounding any ground-level heliport safety area shall be required. These plantings shall be required to obscure at least 75% of the security fence at the time of planting to a height of 24 inches and all shrub plantings shall be expected to reach a height of 5 feet or greater within 5 years of planting.

### D. Heliport, All Others

#### 1. Defined

Facility for the taking off and landing of helicopters not associated with a hospital licensed by the State of North Carolina.

#### 2. Use Standards

- a. Design standards for a heliport shall be in accordance with Federal Aviation Administration requirements.

- b. Proof of Air Space Clearance from the Federal Aviation Agency is required prior to the issuance of a certificate of occupancy or zoning permit.
- c. The facility must be designed and placed so that it will not be detrimental to adjoining properties or to properties within a 1,000-foot radius of the heliport site as measured from the center of the final approach and takeoff area.
- d. Evergreen shrub plantings adjacent to the security fence surrounding any ground-level heliport safety area shall be required. These plantings shall be required to obscure at least 75% of the security fence at the time of planting to a height of 24 inches and all shrub plantings shall be expected to reach a height of 5 feet or greater within 5 years of planting.
- e. The applicant for a heliport special use permit shall notify by first class mail all property owners within a 1,000-foot radius of the center of the proposed final approach and takeoff area. This notice shall be posted at least 30 days prior to the date of the hearing on the request. This notice shall contain the same information as the notice required by Sec. 10.2.1.C.5.a.

## Sec. 6.4.9. Personal Service

### A. Personal Service Use Category

Facilities involved in providing personal or repair services to the general public. Personal service includes the following uses.

- 1. Animal care.
- 2. Beauty/hair salon.
- 3. Catering establishment.
- 4. Cleaning establishment, dry-cleaning or laundry drop-off facility, laundromat, washeteria.
- 5. Copy center.
- 6. Funeral home, funeral parlor, mortuary, undertaking establishment, crematorium, pet crematorium.
- 7. Locksmith.
- 8. Optometrist.

9. Palmist, psychic, medium, fortune telling.
10. Post office.
11. Repair of appliance, bicycle, canvas product, clock, computer, jewelry, musical instrument, office equipment, radio, shoe, television or watch.
12. Tailor, milliner, upholsterer.
13. Tattoo parlor, body piercing.
14. Taxidermist.
15. Wedding chapel.

## B. Animal Care (Indoor)

### 1. Defined

Any building or land used, designed or arranged for the care of animals without limited outdoor activity. Includes animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, cattery, kennel and doggy day care.

### 2. Use Standards

- a. No overnight outdoor activity associated with care of animals is allowed.
- b. Outdoor activity, including but not limited to, walking and bathing of animals, is permitted during the day, provided that no more than 4 animals are engaged in outdoor activity at a time.

## C. Animal Care (Outdoor)

### 1. Defined

Any building or land used, designed or arranged for the care of animals that includes overnight outdoor activity. Includes animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, cattery, kennel and doggy day care.

### 2. Use Standards

- a. All exterior exercise areas and runs must be fenced for the safe confinement of animals.

- b. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any exterior areas used to exercise, walk, or keep animals that about a residential use.
- c. No part of any building, structure or run in which animals are housed shall be closer than 150 feet from any property line, except property owned or occupied by an owner or operator; provided, that the minimum distance referred to above shall not apply if all portions of the facility in which animals are enclosed is located wholly within a building.
- d. In the AP District, 1 unlit announcement sign not exceeding 9 square feet in area and 3½ feet in height is allowed.

## D. Beauty/Hair Salon

### 1. Defined

A facility providing beauty enhancement treatments such as hairdressing, nail, tanning, facials and therapeutic massage. Includes barber.

### 2. Use Standards

A beauty/hair salon in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
- b. The unit cannot exceed 4,000 square feet in gross floor area; and
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

## E. Copy Center

### 1. Defined

A facility that provides printing, publishing, photocopying, packing, shipping and quick-sign services.

### 2. Use Standards

A copy center in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets.
- b. The unit cannot exceed 4,000 square feet in gross floor area.

- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

## F. Optometrist

### 1. Defined

A primary eye care provider who diagnoses, manages and treats disorders of the visual system and eye diseases.

### 2. Use Standards

An optometrist in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
- b. The unit cannot exceed 4,000 square feet in gross floor area; and
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

## G. Use Standards for All Other Personal Service Uses

- 1. A personal service use in an RX- District is subject to the following:
  - a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets.
  - b. The unit cannot exceed 4,000 square feet in gross floor area.
  - c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - d. Drive-thru or drive-in facilities are not permitted.
  - e. Tattoo parlors, body piercing, taxidermists and wedding chapels are not permitted.
- 2. A personal service use in an OX- District is subject to the following:
  - a. Must be within or attached to a multi-tenant building, cannot be located in a standalone building.
  - b. The floor area of the use cannot exceed 15% of the gross floor area of the entire building or 4,000 square feet, whichever is greater.
  - c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

- d. Drive-thru or drive-in facilities are not permitted.
- e. Tattoo parlors, body piercing, taxidermists and wedding chapels are not permitted.

## Sec. 6.4.10. Restaurant/Bar

### A. Restaurant/Bar Use Category

A facility that prepares and sells food and drink for on- or off-premise consumption. Restaurant includes the following uses.

- 1. Bar, nightclub, tavern, lounge.
- 2. Eating establishment.
- 3. Food truck.

### B. Bar, Nightclub, Tavern, Lounge

#### 1. Defined

A facility that prepares and sells food and drink that has alcoholic beverage sales in excess of 70% of the business's total annual sales.

### C. Eating Establishment

#### 1. Defined

A facility that prepares and sells food and drink that may or may not have alcoholic beverage sales. If allowed in no case can alcoholic beverage sales exceed 70% of the business's total annual sales.

#### 2. Use Standards

- a. An eating establishment in an RX- District is subject to the following:
  - i. Must be located on the first floor of a corner unit in an apartment building located at the intersection of 2 public streets.
  - ii. The unit cannot exceed 4,000 square feet in gross floor area.
  - iii. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - iv. Drive-thru or drive-in facilities are not allowed.

- b. An eating establishment in an OX- District is subject to the following:
  - i. Must be within or attached to a multi-tenant building, cannot be located in a standalone building.
  - ii. The floor area cannot exceed 15% of the gross floor area of the entire building or 4,000 square feet, whichever is greater.
  - iii. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - iv. Drive-thru or drive-in facilities are not allowed.
  - v. Must be located at least 150 feet from an abutting Residential District (measured in straight line from the nearest point of the building containing the eating establishment to the boundary line of the district boundary line).
- c. An eating establishment in a CMP District is subject to the following:
  - i. Drive-thru or drive in facilities are not permitted.
  - ii. Must be located at least 150 feet from an abutting Residential District (measured in straight line from the nearest point of the building containing the eating establishment to the boundary line of the district boundary line).

#### D. Food Truck

##### 1. Defined

A licensed, motorized vehicle or mobile food unit which is temporarily stored on a premise where food items are sold to the general public.

##### 2. Use Standards

- a. Food trucks can only be located on a lot containing a principal building or use and the maximum number of food trucks per lot is limited as follows:
  - i. Maximum of 2 food trucks on lots of one-half acre or less;
  - ii. Maximum of 3 food trucks on lots between one-half acre and 1 acre; and
  - iii. Maximum of 4 food trucks on lots greater than 1 acre.
- b. Food trucks must be located at least 100 feet from the main entrance to any eating establishment or similar food service business, 100 feet

- from any outdoor dining area and 50 feet from any permitted food vending cart location, as measured from the designated location on the lot accommodating the food truck. In the event that one or more of the aforementioned uses locates within the minimum separation requirement subsequent to food truck location being approved, nothing shall prohibit the property owner from continuing to operate at the approved location until the food truck permit has expired.
- c. Food trucks must be located at least 5 feet from the edge of any driveway or public sidewalk, utility boxes and vaults, handicapped ramp, building entrance, exit or emergency access/ exit way, or emergency call box and must not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. Food trucks must be located a minimum distance of 15 feet in all directions of a fire hydrant.
- d. Food trucks and associated seating, if any, must not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the principal use's hours of operation do not coincide with those of the food truck business.
- e. Food trucks and associated seating, if any, must not occupy parking spaces that may be leased to other businesses and uses to fulfill their minimum parking requirements.
- f. Food trucks must not occupy any handicap accessible parking space as specified in N.C. Gen. Stat. §20-37.6.
- g. No free-standing signage or audio amplification is allowed as part of the food trucks vending operation. Outdoor seating areas associated with a food trucks vending operation are only permitted on lots 2 acres or greater in size.
- h. Hours of operation are limited to the hours between 6 AM and 3 AM unless the designated location on the lot accommodating food truck is located within 150 feet of the property line of a single-unit or two-unit dwelling in which case the hours of operation are limited to the hours between 7 AM and 10 PM.
- i. The food truck operator or their designee must be present at all times except in cases of an emergency.

- j. Food trucks and associated outdoor seating must be removed from all permitted locations during impermissible hours of operation and must not be stored, parked, or left overnight on any public street or sidewalk.
- k. The food truck vendor is responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles are not to be used for this purpose. Vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor must keep all areas within 5 feet of the truck and any associated seating area clean of grease, trash, paper, cups or cans associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances can grease be released or disposed of in the City's sanitary sewer system.
- l. With the exception of allowable outdoor seating areas, all equipment required for the operation must be contained within, attached to or within 3 feet of the food truck and all food preparation, storage, and sales/distribution made in compliance with all applicable County, State and Federal Health Department sanitary regulations.
- m. A zoning permit must be obtained by the property owner (as listed in the Wake County tax records) for any lot proposed to accommodate one or more food trucks. If at any time evidence is provided that the lot is being used other than in compliance with these regulations, the zoning permit will be rendered null and void, and the owner punished for the violation. This zoning permit must be required to be renewed annually.
- n. A food truck permit must be obtained for food truck business and all required Wake County and City permits and licenses must be clearly displayed on the food truck. A copy of the approved food truck permit and zoning permit shall be kept in the food truck. The approved food truck as shown on the food truck permit shall be clearly delineated on the improved surface. Prior to the issuance of the food truck permit, the vendor must provide evidence of having obtained a City Business License, NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes, a Wake County Environmental Services – Vending Permit and a means for the disposal of grease within an approved grease disposal facility. This food truck permit is required to be renewed annually. If at any time evidence of the improper disposal

of liquid waste or grease is discovered, the food truck permit will be rendered null and void and the food truck business will be required to cease operation immediately. The operator of the food truck business will be punished for the violation.

- o. If at any time, Wake County revokes or suspends the issued food vending permit, the City permit for the food truck business will be revoked or suspended simultaneously.

### **Sec. 6.4.11. Retail Sales**

#### **A. Retail Sales Use Category**

Facilities involved in the sale, lease, or rental of new or used products. Retail sales includes the following uses.

1. Antiques, appliances, art supplies, baked goods, bicycles, books, building supplies, cameras, carpet and floor coverings, crafts, clothing, computers, convenience goods, dry goods, electronic equipment, fabric, flowers, fuel (including gasoline and diesel fuel), furniture, garden supplies, gifts or novelties, groceries, hardware, home improvement, household products, jewelry, medical supplies, music, musical instruments, office supplies, package shipping, pets, pet supplies, pharmaceuticals, photo finishing, picture frames, plants, printed materials, produce, seafood, souvenirs, sporting goods, stationery, tobacco, used or secondhand goods, vehicle parts and accessories, videos and related products.
2. Art gallery.
3. Check cashing, payday loan.
4. Pawnshop.

#### **B. Pawnshop**

##### **1. Defined**

A shop where loans are made with personal property as security.

### C. Use Standards

1. A retail sales use in an RX- District is subject to the following:
  - a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets.
  - b. The unit cannot exceed 4,000 square feet in gross floor area.
  - c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - d. Drive-thru or drive-in facilities are not permitted.
  - e. Vehicle fuel sales, check cashing and payday loan facilities are not permitted.
2. A retail sales use in an OX- District is subject to the following:
  - a. Must be within or attached to a multi-tenant building, cannot be located in a standalone building.
  - b. The floor area of the retail use cannot exceed 15% of the gross floor area of the entire building or 4,000 square feet, whichever is greater.
  - c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - d. Drive-thru or drive-in facilities are not permitted.
  - e. Vehicle fuel sales, check cashing and payday loan facilities are not permitted.
2. All vehicular display area with frontage on any portion of a street right-of-way (not including an alley) must be screened along the street edge by a Type C3 street protective yard under Sec. 7.2.4.B.
3. Vehicle displays shall not be artificially elevated above the general topography of the site.
4. No outside speaker system is permitted.
5. In a NX- District, the sales and leasing of motor vehicles for display shall be conducted within a fully-enclosed building. The outdoor display and storage of vehicles for sale or rental is not be permitted.

## Sec. 6.4.12. Vehicle Sales/Rental

### A. Vehicle Sales Use Category

Direct sales, rental or leasing of passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Vehicle sales includes the following.

1. Boats and other recreational vehicle sales.
2. Vehicle sales, rental or leasing.

### B. Use Standards

1. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all property lines abutting a residential use.

## Article 6.5. Industrial Uses

### Sec. 6.5.1. Heavy Industrial

#### A. Heavy Industrial Use Category

Any facility that involves dangerous, noxious or offensive uses or a facility that has smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause. Heavy industrial includes the following uses.

1. Asbestos, radioactive materials.
2. Animal processing, packing, treating and storage, concentrate plant, processing of food and related products, production of lumber, tobacco, chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing.
3. Automobile dismantlers and recyclers.
4. Bulk storage of flammable liquids, chemical, cosmetics, drug, soap, paints, fertilizers and abrasive products.
5. Commercial feed lot.
6. Concrete batching and asphalt processing and manufacture, batch plant Earth moving, heavy construction equipment, transportation equipment.
7. Detention center, jail, prison.
8. Explosives.
9. Fabricated metal products and machinery.
10. Industrial sign-making.
11. Leather and leather products includes tanning and finishing.
12. Lumberyard and wood products.
13. Manufactured or modular housing sales.
14. Outdoor storage yard for vehicles.
15. Primary metal manufacturing.
16. Pulp mill, rubber and plastic products, rubber manufacturing.
17. Scrap metal processors, sawmill, secondary materials dealers.

18. Trailer leasing, auction vehicle, broker vehicle.

19. Tire recapping, tobacco products, transportation equipment.

#### B. Detention Center, Jail, Prison

##### 1. Defined

A secured facility for the incarceration of individuals either awaiting trial or convicted of a crime.

#### C. Towing Yard for Vehicles

##### 1. Defined

A facility for the impound and temporary storage of vehicles that is operated by someone engaged in the wrecker or towing business.

##### 2. Use Standards

- a. The facility must be used exclusively for vehicle storage and no parts from stored vehicles can be sold.
- b. A Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all shared property lines, except for an adjacent heavy industrial use or waste-related service.
- c. A Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.
- d. No towing yard for vehicles can be within 5,280 feet of another towing yard for vehicles (determined by a straight line from property line to property line).

### Sec. 6.5.2. Light Industrial

#### A. Light Industrial Use Category

Manufacturing, assembly, repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products mainly by providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Light industrial includes the following uses.

1. Bottling.
2. Brewery, winery.
3. Bus or rail transit vehicle maintenance or storage facility.

4. Contractors storage including janitorial and building maintenance service, exterminator, or other maintenance yard or facility, building, heating, plumbing, landscaping or electrical contractor and others who perform services off-site, but store equipment and materials or perform fabrication or similar work on-site.
5. Food and beverage products except animal slaughter, stockyards.
6. Lawn, tree or garden service.
7. Laundry, dry-cleaning, and carpet cleaning plants.
8. Leather and leather products except tanning and finishing.
9. Sheet metal, welding, machine, tool repair shop or studio.
10. Stone, clay, glass, and concrete products.
11. Woodworking, including cabinet makers and furniture manufacturing.

### Sec. 6.5.3. Light Manufacturing

#### A. Light Manufacturing Use Category

A facility conducting light manufacturing operations within a fully-enclosed building. Light manufacturing includes the following uses.

1. Clothing, textile apparel manufacturing.
2. Facilities engaged in the assembly, design, repair or testing of: analyzing or scientific measuring instruments; semiconductor and related solid state devices, including but not limited to clocks, integrated microcircuits; jewelry, medical, musical instruments, photographic or optical instruments; and timing instruments.
3. Office showroom/warehouse.
4. Printing, publishing, and lithography.
5. Production of artwork and toys, graphic design sign-making, movie production facility, photo-finishing laboratory.
6. Repair of scientific or professional instruments and electric motors.

### Sec. 6.5.4. Research & Development

#### A. Research & Development Use Category

A facility focused primarily on the research and development of new products. Research and development includes the following uses.

1. Laboratories, offices and other facilities used for research and development by or for any individual, organization or concern, whether public or private.
2. Prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product.
3. Pilot plants used to test manufacturing processes planned for use in production elsewhere.

### Sec. 6.5.5. Self-Service Storage

#### A. Self-Service Storage Use Category

Facilities providing separate storage areas for personal or business use designed to allow private access by the tenant for storing or removing personal property. Self-service storage includes the following uses.

1. Warehouse, self-service.
2. Fully enclosed indoor multi-story storage.
3. Mini-warehouse.

#### B. Use Standards

1. A self-storage facility in an CX- District is subject to the following.
  - a. The minimum size of the site is at least 2 acres.
  - b. All storage shall be contained within a fully-enclosed building. However, the storage of boats, RV's or other similar vehicles may be permitted in accordance with *Article 7.5. Outdoor Display and Storage*.
  - c. All storage units must be contained in a single building and accessed internally. For properties where an Urban Frontage is applied, storage units are not permitted on the ground floor. The outdoor storage of boats, RV's or similar vehicles is not permitted.
  - d. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all shared property lines, except for an adjacent self-service storage, heavy industrial use, waste-related service or residential use.
  - e. A Type B1 or B2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all property lines abutting a residential use.
  - f. A Type C1 or C2 street protective yard (see *Sec. 7.2.4.B.*) must be established along all property lines abutting a public right-of-way.

2. A self-storage facility in a DX- District is subject to the following:
  - a. All storage shall be contained within a fully-enclosed building.
  - b. All storage units must be contained in a single building, and accessed internally. Storage units are not permitted on the ground floor. The outdoor storage of boats, RV's or similar vehicles is not permitted.
3. A self-storage facility in an IX- District is subject to the following:
  - a. The minimum size of the site is at least 2 acres.
  - b. All storage shall be contained within a fully-enclosed building. However, the storage of boats, RV's or other similar vehicles may be permitted in accordance with *Article 7.5. Outdoor Display and Storage*.
  - c. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all shared property lines, except for an adjacent self-service storage, heavy industrial use, waste-related service or residential use.
  - d. A Type B1 or B2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all property lines abutting a residential use.
  - e. A Type C1 or C2 street protective yard (see *Sec. 7.2.4.B.*) must be established along all property lines abutting a public right-of-way.

## Sec. 6.5.6. Vehicle Service

### A. Vehicle Service Use Category

Repair and service to passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Vehicle service includes the following uses.

1. Vehicle repair (minor).
2. Vehicle repair (major).
3. Vehicle repair (commercial vehicle).
4. Car wash.

### B. Car Wash

#### 1. Defined

Facility with mechanical or hand-operated equipment used for cleaning, washing, polishing, or waxing of motor vehicles.

## 2. Use Standards

- a. Car wash facilities located within 200 feet of a Residential District (determined by a straight line from the property line to the district boundary line) shall meet the following requirements.
  - i. All washing, waxing, machine drying and related activities and operations shall be conducted entirely within an enclosed building (except for vehicular openings a maximum of 12 feet in width) with the exception of vacuuming, hand washing, hand drying and hand waxing of vehicles, the sale of items from vending machines and refuse storage and disposal.
  - ii. No vehicular openings providing access to the enclosed building shall face the Residential District. For purposes of this section, the building wall providing access shall be at an angle greater than 60 degrees from the Residential District line.
  - iii. All vacuuming and compression machines located outside of the enclosed building shall be of a design that does not exceed a noise level reading of 45 dB(A), as measured from the property line, between the hour of 6 AM to 7 AM and 55 dB(A) at all other lawful hours of operation.
  - iv. Operation of the establishment shall be prohibited prior to 6 AM or after 11 PM on all days of the week. The hours of operation shall be required to be posted on site at a conspicuous location and all of the establishment's car wash equipment shall be rendered inoperable at all times other than during its hours of operation.
- b. Accessory car wash facilities shall be prohibited unless one or more of the following exist:
  - i. Operation of the facility is after 6:00 AM and before 11:00 PM on all days of the week.
  - ii. The car wash is equipped only with fully automatic wash equipment so the driver remains in their car during the entire wash process, and all other outdoor on-site customer activities such as vacuuming is prohibited.

### C. Vehicle Repair (Minor)

#### 1. Defined

A facility where minor vehicle repair and service is conducted. Includes audio and alarm installation, custom accessories, quick lubrication facilities, minor scratch and dent repair, bed-liner installation and glass repair or replacement.

#### 2. Use Standards

- a. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all property lines abutting a residential use.
- b. The outdoor overnight storage of vehicles may be permitted in accordance with *Article 7.5. Outdoor Display and Storage*. Operable vehicles may be parked on-site during business hours.
- c. There shall be no dismantling of vehicles for salvage.
- d. The storage of impounded vehicles is not permitted.
- e. No outside speaker system is permitted.
- f. In the NX- District, a maximum of 2 service bay doors no more than 24 feet in width each are permitted on 2 sides of the building.
- g. Service doors shall be closed except for entry and exit of automobiles.

### D. Vehicle Repair (Major)

#### 1. Defined

A facility where general vehicle repair and service is conducted, including transmission, brake, muffler and tire shops, along with body and paint shops. Major vehicle repair does not include any use meeting the definition for minor vehicle repair or commercial vehicle repair.

#### 2. Use Standards

- a. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all property lines abutting a residential use.
- b. The outdoor overnight storage of vehicles awaiting repair may be permitted in accordance with *Article 7.5. Outdoor Display and Storage*. Operable vehicles may be parked on-site during business hours.

- c. There shall be no dismantling of vehicles for salvage.
- d. The storage of impounded vehicles is not permitted.
- e. No outside speaker system is permitted.

### E. Vehicle Repair (Commercial Vehicle)

#### 1. Defined

Repair, service, washing, or accessory installation for commercial vehicles, including box trucks, 18-wheelers and construction or other heavy equipment.

#### 2. Use Standards

- a. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all property lines abutting a residential use.
- b. The outdoor overnight storage of vehicles awaiting repair may be permitted in accordance with *Article 7.5. Outdoor Display and Storage*. Operable vehicles may be parked on-site during business hours.
- c. There shall be no dismantling of vehicles for salvage.
- d. The storage of impounded vehicles is not permitted.
- e. No outside speaker system is permitted.

## Sec. 6.5.7. Warehouse & Distribution

### A. Warehouse & Distribution Use Category

Facilities involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and distribution includes the following uses.

1. Bulk storage, including nonflammable liquids, cold storage plants, including frozen food lockers, household moving and general freight storage, separate warehouse used by retail store such as furniture or appliance store.
2. Bus barn.
3. Commercial packing for fruits and vegetables.
4. Distribution facility, central postal facility.
5. Freight, service facility.
6. Parcel services.
7. Transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred.
8. Trailer storage, drop off lot.
9. Truck or motor freight terminal, service facility.
10. Trucking operation.
11. Warehouse.

### B. Use Standards

1. A Type B1 or B2 transitional protective yard (see *Sec. 7.2.4.A.*) must be established along all shared property lines, except for an adjacent warehouse and distribution use, heavy industrial use or waste-related service.
2. A Type C1 or C2 street protective yard (see *Sec. 7.2.4.B.*) must be established along all property lines abutting a public right-of-way.

## Sec. 6.5.8. Waste-Related Service

### A. Waste-Related Service Use Category

Characterized by uses that receive solid or liquid wastes from others for transfer to another location and uses that collect sanitary wastes or that manufacture or produce goods or energy from the composting of organic material. Waste-related service includes the following uses.

1. Animal waste processing.
2. Landfill.
3. Manufacture and production of goods from composting organic material.
4. Outdoor storage of recyclable material.
5. Scrap Materials (indoor storage).
6. Solid or liquid waste transfer station, waste incineration.

## Sec. 6.5.9. Wholesale Trade

### A. Wholesale Trade Use Category

Facilities involved in the sale, lease, or rent of products to industrial, institutional or commercial businesses only. The use emphasizes on-site sales or order-taking and often includes display areas. Businesses may or may not be open to the general public, but sales to the general public are not permitted. Products may be picked up on-site or delivered to the customer. Wholesale trade includes the following uses.

1. Mail-order house.
2. Sale or rental of machinery, equipment, heavy equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, plumbing supplies, janitorial supplies, restaurant equipment and store fixtures.
3. Wholesale sales of food, clothing, auto parts, building hardware and similar products.

## Article 6.6. Open Uses

### Sec. 6.6.1. Agriculture

#### A. Agriculture Use Category

The raising and harvesting of trees, vines, seeds, plants and crops, as well as the keeping, grazing or feeding of animals (including fish) for animal products, animal propagation, or value increase. Agriculture includes the following uses.

1. Animal raising including horses, hogs, cows, sheep, goats, swine, poultry, rabbits and other small animals, apiculture, aquaculture, dairying, personal or commercial animal breeding and development.
2. Community garden.
3. Crop production, soil preparation, agricultural services, large animal and veterinary services, farm labor and management services, research farm.
4. Floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture, sale of agriculture products.
5. Fish hatcheries, fish farm.
6. Forestry, timber tracts, forest nursery, gathering of forest products.
7. Grain, fruit, field crop and vegetable cultivation and storage.
8. Hunting, trapping and game propagation.
9. Livestock, horse, dairy, poultry and egg products.
10. Livestock auction.
11. Milk processing plant.
12. Plant nursery.
13. Restricted agriculture.
14. Urban farm.
15. Wildlife sanctuary.

#### B. Community Garden

##### 1. Defined

Areas of land managed and maintained by a group of individuals to grow and harvest food crops and non-food ornamental crops, for personal or group

use, consumption, or donation. They may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by the group.

#### 2. Use Standards

- a. A community garden shall be primarily used for growing and harvesting food crops and ornamental crops, for consumption or donation or for sale off-site.
- b. On-site sales are not permitted in the residential districts. On-site sales may be permitted in the mixed use and special districts with the approval of a special use permit, following the procedures set forth in *Sec. 10.2.9*. Sales shall be restricted to horticultural and agricultural products produced on the premises.
- c. Detached accessory structures such as storage or utility buildings, gazebos, trellises, or accessory greenhouse structures are permitted, subject to compliance with the requirements of the zoning district.
- d. If security fencing is installed, such fencing shall be of an open design.
- e. If lighting is installed, only motion-detecting fixtures shall be permitted. All-night lighting is prohibited.
- f. Community gardens shall be managed and maintained in compliance with all applicable standards of this UDO and the City Code, including but not limited to those pertaining to: nuisance abatement, stormwater, site accessibility, signage, soil erosion and sedimentation control and any required tree conservation and landscaping.
- g. Raising of animals is not permitted in a Residential District. In all other permitted districts, the raising of animals is subject to the following conditions:
  - i. The community garden must be in active use for the growing and harvesting of crops.
  - ii. Hoofed animals are prohibited.
  - iii. Chickens are permitted at rate of 1 chicken per 1,000 square feet of lot area not to exceed 10 chickens on any single lot. No roosters are allowed.
  - iv. A maximum of 2 bee hives are permitted.

- v. Any coop, hutch, hive, or other structure for housing animals shall be located at least 25 feet from any property line.

### C. Plant Nursery

#### 1. Defined

A facility where horticultural and agricultural products produced on the premises are sold.

#### 2. Use Standards

- a. Sales shall be limited to agricultural products produced on the premises, hand-held garden tools, bags of fertilizer, mulch, and similar items normally associated with nursery or gardening operations.
- b. Sales offices shall be limited to 100 square feet of gross floor area per acre of land area, but in no case can the sales office exceed 1,000 square feet of gross floor area.
- c. The use shall not be located within a Primary Reservoir Watershed Protection Area.
- d. No more than 1 on-premise announcement sign not to exceed 12 square feet in area and 3½ feet in height.

### D. Restricted Agriculture

#### 1. Defined

The raising and harvesting of tree crops (excluding forestry), vine crops and horticultural specialties not requiring intense cultivation. The keeping or grazing of animals for animal products, animal propagation or value increase is not allowed.

### E. Urban Farm

#### 1. Defined

The raising and harvesting of trees (excluding forestry), vines, seeds, plants and crops, as well as the keeping, grazing or feeding of animals (including fish) for animal products, animal propagation, or value increase when located in an urbanized (developed) area. An urban farm may be owned by an individual, group or organization and may include intensive agriculture, typical large-scale farm equipment, and animal husbandry.

## Sec. 6.6.2. Resource Extraction

### A. Resource Extraction Use Category

Characterized by uses that extract minerals and other solids and liquids from land. Resource extraction includes the following uses.

- 1. Dredging, earth extraction, gas extraction.
- 2. Extraction of phosphate or minerals.
- 3. Extraction of sand or gravel, borrow pit.
- 4. Land clearing for the purpose of resource extraction.
- 5. Metal, sand, stone, gravel, clay, mining and other related processing.
- 6. Stockpiling of sand, gravel, or other aggregate materials.

### B. Use Standards

- 1. A type B3 transitional protective yard with a berm (see *Sec. 7.2.4.A.*) must be established along all outer perimeter property lines except where the property abuts an IH District or is used for industrial uses listed in *Article 6.5. Industrial Uses*.
- 2. For lawful resource extraction facilities established prior to September 1, 2013 that adjoin uses other than household living as listed in *Sec. 6.2.1.*, existing woodland vegetation at least 25 feet in width may be used, in whole or in part, to satisfy the transitional protective yard, provided any gap in woodland vegetation 20 feet or more in width shall be planted with evergreen hollies that have a mature height of at least 25 feet tall.
- 3. A type C4 street protective yard with a berm (see *Sec. 7.2.4.B.*) must be established along all property lines abutting a public right-of-way.
- 4. Except for properties in an IH District or used for industrial uses listed in *Article 6.5. Industrial Uses*, there shall be provided between overburden storage areas and adjoining properties not owned or leased by the operator, (a) walls, closed fences, berms or any combination equal or greater in height than the height of the overburden or (b) planted vegetation containing the following characteristics:
  - a. Newly planted landscaping shall be of the following varieties: loblolly pine, genetically improved stock, Japanese cryptomeria 'Yoshino' and 'Nellie Stevens' holly;

- b. Newly planted pine trees shall be planted double filed with a linear-triangle configuration with 20 foot spacing. Yoshino and Nellie Stevens shall be installed in the middle of the tree plantings, with at least 25 percent of each variety being planted; and
  - c. The planted pine trees shall be at least 6 feet tall and the planted Yoshino and Nellie Stevens shall be at least 4 feet tall.
5. Existing woodland vegetation, at least 25 feet in width, which meets or exceeds the screening characteristics of the planted material may be used, in whole or in part, to satisfy the vegetative planting requirements.
6. If planted or existing vegetation is used to screen the overburden, the overburden may not exceed a height of 70 feet or other City ordinances, whichever is more stringent.
7. A property shall be considered "adjoining" if it is separated from the area where overburden is deposited by a street right-of-way 100 feet wide or less.
8. Upon the completion of any deposit of overburden material in any area, the deposit shall be covered with grass or other ground cover.
9. The following hours of operations shall be observed:
  - a. Blasting on the property is allowed only between the hours of 9 AM and 5 PM Mondays through Fridays except in the case of emergency. No blasting is allowed on the traditional holidays of New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.
  - b. Crushing equipment shall operate only between the hours of 6 AM and 9 PM Mondays through Saturdays and only between 1 PM and 9 PM on Sundays.
  - c. Overburden will be deposited, graded or moved about the property only between the hours of 7 AM and 6 PM Mondays through Saturdays.
10. If the operator uses audible back-up warning devices on machinery or equipment, the volume and frequency of the back-up warning devices shall be the minimum required to comply with any applicable law or regulation.
11. All load trucks entering the property shall have a working functioning load cover. Any truck that does not have a working functioning load cover shall not be loaded. Loads on load trucks exiting the property shall be covered.
12. At each exit driveway utilized by loaded trucks, a sign shall be erected reading that all loads exiting the property are required by City ordinance to be covered, and that failure to cover is a violation of the City Code. The sign shall be facing the property and all lettering shall be a minimum of 6 inches tall.
13. The primary crusher shall not be located closer than 300 feet to any outer property boundary and no closer than 600 feet to any Residential District. In lieu of meeting these distances, the primary crusher may be located in any area of the excavation pit that is 50 or more feet below the then current grade surface level, so that the wall of the excavation pit will function as a noise baffle.

## Article 6.7. Accessory Uses & Structures

### Sec. 6.7.1. In General

- A. Accessory uses and structures are permitted in conjunction with allowed principal uses. Allowed accessory uses and structures include those listed in this Article and additional accessory uses and structures that, as interpreted by the Zoning Enforcement Administrator, meet the following:
1. Are clearly incidental to and customarily found in connection with an allowed principal building or use;
  2. Are subordinate to and serving an allowed principal building or use;
  3. Are subordinate in area, extent and purpose to the principal building or use served;
  4. Contribute to the comfort, convenience or needs of occupants, business or industry in the principal building or use served; and
  5. Are located on the same lot as the principal building or use served.
- B. In addition, no accessory use or structure may be established on a lot prior to the establishment of a permitted principal use.

### Sec. 6.7.2. Accessory Structures

- A. Setback and height requirements for all accessory structures are established for each building type and are set forth in the district chapter (*Chapter 2. Residential Districts, Chapter 3. Mixed Use Districts, and Chapter 4. Special Districts*).
- B. No accessory structure may be located closer than 10 feet to any other building or structure on the same lot.

### Sec. 6.7.3. Additional Standards for Specific Accessory Uses

#### A. Caretaker's Residence

A single dwelling unit as a residence for a caretaker or watchman accessory to a permitted use is permitted in all districts other than a Residential District.

#### B. Dish Antenna

An antenna whose purpose is to receive signals from orbiting satellites. The regulations of this section apply only to dish antennas larger than 1 meter in diameter.

1. No dish antenna can be located closer than 30 feet to a public right-of-way.
2. In a Residential District, no dish antenna can have a dish of a diameter greater than 12 feet, unless located more than 100 feet from a property line.
3. In a Residential District, any antenna not mounted on a building that is over 4 feet in diameter shall be screened from the right-of-way and the property boundary of any abutting lot. The screen shall be made of plant materials, berms, closed fences, or walls or any combination of that reduce the view from the abutting lot or right-of-way to a height of 6 feet above ground elevation year round. Fences or walls utilized for screening must be architecturally compatible with other buildings and structures on the site. Planting shall be provided so that no more than  $\frac{2}{3}$  of the height of the fence or wall is visible from the abutting lot or right-of-way within 5 years of the erection of the fence or wall.
4. Roof-mounted dish antennas shall be screened from any public street that is open to vehicular traffic. All roof-mounted dish antennas exceeding 4 feet in diameter shall be constructed of mesh type material.

#### C. Garage for 5 or More Vehicles Accessory to a Dwelling

A special use permit may be issued in accordance with *Sec. 10.2.9.* for a garage for 5 or more motorized vehicles in a Residential District.

#### D. Home Occupation

An occupation that provides a service or product that is conducted wholly within a residential dwelling in a Residential District.

1. No nonresident employees are allowed. Clients, customers, patients and visitors are not allowed to visit the premises.
2. No display of goods, products, or services shall be visible from outside the dwelling.
3. The home occupation shall not exceed 25% of the livable portion of the dwelling.
4. No business storage or warehousing of material, supplies or equipment is permitted outdoors. Storage is permitted in the principal dwelling unit or a fully-enclosed accessory structure only.
5. There must be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.

6. No equipment, vehicle or process may be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
7. Only 1 vehicle used in connection with the home occupation shall be parked or stored on the premises; provided, however, the vehicle must not be a bus, truck, van, trailer or other vehicle over 6,000 lbs., as listed on the vehicle registration form, and no advertising or reference to the home occupation may be displayed on the vehicle in any manner.
8. The requirements for shipping and receiving of materials in connection with the business does not create excessive noise or traffic.

#### **E. Live-Work**

An occupation that provides a service or product that is conducted wholly within a residential dwelling that allows employees, customers, clients or patrons to visit.

1. In a Residential District, a special use permit issued in accordance with Sec. 10.2.9. is required for a live-work unit.
2. A minimum of 1 individual must occupy the live-work unit as their primary place of residence.
3. The live-work unit may employ no more than 2 individuals not living on the premises at any one time.
4. Work space within the unit may be used as an office, studio, gallery, beauty/hair salon, or for production involving the use of hand tools and small-scale, light equipment.
5. Resale of items such as, but not limited to, antiques, jewelry and clothing may be permitted in addition to handmade items produced in the live-work unit.
6. No specialty service such as, but not limited to, dance instruction, crafts, or music lessons shall be provided for a group larger than 5 persons.
7. No business storage or warehousing of material, supplies or equipment is permitted outdoors. Storage is permitted in the live-work unit or a fully-enclosed accessory structure only.
8. Except for permitted signage, there must be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the work inside.

9. Signage is limited to 1 unlit wall or projecting sign no larger than 3 square feet in area, attached to the structure housing the live-work unit.
10. No equipment, vehicle or process may be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
11. Only 1 vehicle used in connection with the live-work use shall be parked or stored on the premises; provided, however, the vehicle must not be a bus, truck, van, trailer or other vehicle over 6,000 lbs, as listed on the vehicle registration form, and no advertising or reference to the use may be displayed on the vehicle in any manner.
12. No more than 5 customers are permitted on the premises at any one time.
13. The requirements for shipping and receiving of materials in connection with the business does not create excessive noise or traffic.
14. One additional on-site parking space is required per live-work unit.

#### **F. Nonresidential Accessory Service**

A nonresidential accessory use located within a building containing a permitted nonresidential principal use in an OP- or OX- district. Allowed accessory uses are limited to eating establishment, laundry or dry cleaning pickup, flower shop, gift shop, newsstand, catalog office supply sales or other service use. Does not include an adult establishment.

##### **1. Use Standards**

- a. The accessory use must be located in a building with a minimum of 30,000 square feet of gross floor area. The accessory use may locate in a smaller building provided all the buildings on the same lot contain a minimum gross floor area of 30,000 square feet.
- b. The gross floor area of all accessory uses can be no more than 10% of the building or all buildings on the same lot, and in no case more than 20% of the floor area gross of the building within which it is located.
- c. In a multi-tenant building, 1 tenant may use the full 10% of the building floor area for an accessory use, and such tenant is not restricted in its application to 10% of its lease area.
- d. No more than 3,000 square feet is permitted for any 1 accessory use in the OP- District.

- e. The primary entrance to the accessory use must be internal to the main building.
- f. The display of products and activity of the accessory use must not be visible from outside the building.
- g. No drive-thru or drive-in facilities are allowed.
- h. No accessory use can operate before 8 AM or after 6 PM, unless the routine hours of operation within more than 50% of the floor area within the building in which the facility is located is operational either before 8 AM or after 6 PM.
- i. The signage and location must not be designed to attract clientele from outside the building or lot within which the use is sited.

### G. Recreational Use Related to a Residential Development

1. Recreational use is limited to the following facilities: clubhouse, docks, exercise rooms, game and craft rooms, gymnasiums, party and reception rooms, bicycle paths, pedestrian and equestrian trails, picnic areas, play courts, such as basketball, racquetball, and tennis courts, golf courses, driving ranges, play fields, playgrounds, sauna baths, swimming pools and tanning facilities.
2. These uses are allowed only as part of a residential development or subdivision, a compact development, a conservation development, a manufactured home development, or a congregate care facility. Such uses may be located outside of the boundaries of the development, provided that:
  - a. The lot is owned by the development (through its homeowners association or other similar mechanism); and
  - b. The lot adjoins the subdivision for at least 50% of its perimeter; or
  - c. The lot is located across a street or other right-of-way for at least 50% of its perimeter.
3. Nonresident memberships or fees paid by the general public shall not be permitted. This prohibition shall not be construed to disallow membership fees for residents of the development and their guests made on an installment basis of not less than monthly, rather than on any pay-for-use, hourly, daily or weekly basis. Membership fees are allowed for any recreational use related if it also complies with all regulations of a

recreational use restricted to membership, either commercial or not for profit.

4. The recreation facilities shall be owned by either a not for profit organization, a homeowners association, or multi-unit development owner.
5. Any pool with any linear dimension greater 65 feet or with any area in excess of 4,000 square feet must be approved as special use permit in accordance with *Sec. 10.2.9*.
6. No signage, storage, merchandise, or display including display windows shall be visible from outside of the recreational use.
7. Parking for the recreational uses shall be provided in accordance with *Sec. 10.2.9*. However, the number of required parking spaces may be reduced by the ratio of the total parking required for the residential uses that are located within 400 feet of the recreation use to the total required parking for all residential uses in the development.

### H. Religious Shelter Unit

Temporary housing associated with a place of worship that is for counseling, education and referral services for temporary residents. A zoning permit is required for any religious shelter unit.

1. The facility is an accessory use to a place of worship and occupies a floor area of no more than 10% of the gross floor area in any 1 complex.
2. It houses no more than 12 residents at any one time provided that a minimum floor space of 100 square feet of space is provided for each individual sheltered.
3. No individual or family resides at the facility for a period longer than 18 months, and no person or family shall be readmitted until at least 14 days have elapsed from their last residency.
4. It is located in a place of worship which is established on the site for a period of 1 year or longer.
5. It provides an employee or volunteer to maintain continuous on-site supervision.

6. No religious shelter unit may be located within  $\frac{3}{4}$ -mile radius of another religious shelter unit (determined by a straight line from property line to property line).
7. It is not located within a Primary Reservoir Watershed Protection Area or an -AOD.

#### **I. Residential Accessory Service**

1. A nonresidential accessory use located within an apartment or townhouse development or congregate care facility in an R-1, R-2, R-4, R-6, R-10 or RX-district. Allowed accessory uses are limited to eating establishment, beauty or barber shop, laundry or dry cleaning pickup, drug store, flower shop, gift shop or newsstand. Does not include an adult establishment.
2. The gross floor area of all accessory uses can be no more than 25% of the dwelling unit.
3. In no case shall the accessory use occupy more than 50% of the building gross floor area or 2,000 square feet, whichever is less (except that laundry facilities shall be excluded from this maximum floor area).
4. The primary entrance to the accessory use must be internal to the main building.
5. The display of products and activity of the accessory use must not be visible from outside the building.
6. No drive-thru or drive-in facilities are allowed.
7. The signage and location must not be designed to attract clientele from outside the building or lot within which the use is sited.
8. Residential accessory service uses are not allowed in a Primary Watershed Protection Area.

## Article 6.8. Temporary Uses

### Sec. 6.8.1. Applicability

A temporary use permit is intended to allow for the short-term placement of activities, many of which would be not allowed on a permanent basis. The following regulations govern temporary uses.

### Sec. 6.8.2. Temporary Use Permit Required

The following temporary uses are allowed subject to approval of a temporary use permit issued in accordance with Sec. 11.4.1.

#### A. Temporary Event

1. A temporary event lasting 1 day shall be permitted without complying with the conditions below, provided that no more than 4 temporary events in any 1 calendar year shall be permitted on that premise.
2. All temporary events lasting more than 1 day on any premise in any one calendar year shall meet all of the following:
  - a. No premise shall be the site of a temporary event exceeding a collective total of 20 days, or 3 individual weekends, or both within any one calendar year. In this context, a weekend shall constitute 3 consecutive days.
  - b. Signs associated with a permitted temporary event shall be a maximum size of 64 square feet in area allocated to no more than 5 signs.
  - c. All outdoor activities shall be discontinued by 11 PM when located closer than 500 feet to a residential use or a congregate care facility.
  - d. No unauthorized encroachments on public rights-of-way are allowed.
  - e. The temporary event must comply with all applicable floodplain policies.

#### B. Fund Raising Activity for a Civic Use in a Residential District

1. The fund raising activity is on a periodic basis.
2. Activities are discontinued by 11 PM.

#### C. Outdoor Mobile Vending Cart

An outdoor mobile vending cart is allowed in any mixed use district subject to the following requirements:

1. Outdoor mobile vending carts shall be located on the same lot as a principal building. The minimum lot size is 2½ acres.
2. The maximum number of outdoor mobile vending carts per lot shall be in accordance with the following:
  - a. One outdoor mobile vending cart on lots less than 5 acres.
  - b. Two outdoor mobile vending carts on lots of 5 acres or greater but less than 10 acres.
  - c. Three outdoor mobile vending carts on lots of 10 acres or greater but less than 15 acres.
  - d. Four outdoor mobile vending carts on lots of 15 acres or greater.
  - e. A maximum of 1 outdoor mobile vending cart when tenant occupancy equates to less than 50% of the gross floor area of the principal buildings.
  - f. The amount of space occupied by outdoor mobile vending carts shall not exceed 1% of the occupied floor area gross of the principal buildings.
3. The dimensions of any outdoor mobile vending cart may not exceed the following:
  - a. 50 square feet in area.
  - b. A maximum length or width of 10 feet and a maximum height of 8 feet.
  - c. The maximum height of 8 feet shall include any protection provided for the vendor or customer from outdoor conditions in the form of an umbrella, or other protective covering which must be attached to the cart.
4. All signage must be attached to the cart and shall be limited to a maximum of 32 square feet.
5. All required Wake County and City of Raleigh permits and licenses shall be clearly displayed on the vending cart.
6. The vending cart must be located within 25 feet of a principal building facade containing a primary pedestrian entrance, located no closer than 10 feet to any entrance or exit and may not be situated such that the free flow of pedestrian or vehicular traffic is restricted.
7. Hours of operation for any outdoor mobile vending cart shall be limited to the hours of operation of the associated principal use, but in no event be in operation between the hours of 11 PM and 8 AM.
8. Sales of goods and merchandise shall be limited to food and beverage items, fresh cut flowers and original artworks and handicrafts.

## D. Produce Stand

### 1. Defined

A produce stand permits the itinerant sale of agricultural produce and home-made food goods on a property without a permanent structure or improvements.

### 2. Use Standards

- a. Sales shall be limited to agricultural produce not exceeding a maximum of 2,000 square feet per lot (not including areas devoted to driveways and off-street parking). In addition to the sales of agricultural produce, 25% of the produce stand area may be devoted to the sales of home-made food goods such as baked goods, jams and relishes. For produce stands not removed from the lot on a daily basis, the use shall be limited to a maximum of 8 months per calendar year. All tents, stands, signs and structures associated with the produce stand shall be removed from the property within 5 calendar days following the termination of the approved time period.
- b. Produce stands locating within a Residential District shall be required to locate on the property of a civic building or use (such as a place of worship or school), or within the common area of an apartment building or series of buildings containing a minimum of 100 dwelling units, or on property fronting a Major Street as designated on the Comprehensive Plan. In the event that the property fronting a Major Street is developed with a detached house used for single-unit living, no parking associated with the produce stand may be located within the front yard area.
- c. Tents, stands, signs or other related structures shall provide a minimum 10-foot setback from all property lines and public rights-of-way and shall not be located within sight distance triangles.
- d. One off-street parking space shall be provided for every 200 square feet of area devoted to the produce stand activities, but no less than 3 parking spaces. Areas devoted to off-street parking shall be oriented to provide for safe pedestrian and vehicular circulation and arranged so that vehicular ingress and egress to the parking areas is by forward motion of the vehicle. Produce stands shall be exempt from the parking surfaces requirements and the required landscaping regulations.
- e. Signage for all produce stand activities on the premise shall be limited to 1 unlit announcement sign not to exceed 12 square feet in area and be no higher than 3½ feet above the ground elevation.
- f. All activities shall be discontinued by 8:00 PM when located in a Residential District.
- g. No code-required landscape planting areas shall be utilized in association with the produce stand activities and no unauthorized encroachments on public rights-of-way shall be permitted.
- h. A plot plan that shows the location of all tents, produce stands, driveways, off-street parking, traffic circulation, signs, or other related structures shall be submitted to the City for their approval, and that a zoning permit be issued prior to any event taking place.

## E. Residential Development Sales Office or Model Home

1. The use of the office shall be for the initial sale or lease of properties or buildings within the residential development.
2. There shall be no signage for a residential development sales office or model home on the premises in a Residential District except for 1 unlit ground announcement sign not to exceed 6 square feet in area, and 3½ feet in height that is located on the sales office or model home lot.
3. For a developing residential subdivision, any phase containing a residential development sales office or model home shall contain a minimum of 5 acres and be intended for a minimum of 10 residential properties.
4. The building may be used for sales purposes for a period of 3 years, but the period can be extended by the Planning and Development Officer on a semi-annual basis, provided the owner can show reasonable cause for such extensions and the unit remains occupied and used. In no event will the sales office or model home be continued when all of the properties of the development phase or building are sold or leased, excluding the sales office lot or model home lot within a subdivision.
5. No sales office or model home shall be used for any other retail purpose.

6. For a developing residential subdivision, the building must be located on an approved lot intended to be occupied by a dwelling unit, except for facilities located in recreational buildings. For all residential developments, the building must be located to comply with applicable district dimensional standards.
7. The building used for the sales office is either constructed and intended for ultimate residential use as part of the residential development or a temporary modular office unit. If a temporary modular office unit is constructed, the following additional conditions shall be met:
  - a. The modular office unit must be placed on a proper foundation, as recommended by the manufacturer.
  - b. Skirting and natural planting shrubs shall be installed around all sides of the modular office unit in accordance with the following:
    - i. Skirting shall consist of any weatherproof material providing a visual barrier between the underside of the modular office unit and the stand; and
    - ii. All natural shrubs shall be evergreen, a minimum of 36 inches tall, and planted 5 foot on center, but no one side shall have less than 2 plants.
  - c. At the end of the maximum time period allowed for this use, the property owner shall remove the temporary modular office unit, the foundation and all other physical structures such that natural plant materials shall solely occupy the lot until such time that a permanent use allowed within the district is established.

*PAGE INTENTIONALLY LEFT BLANK*

# CHAPTER 7. GENERAL DEVELOPMENT STANDARDS

## Article 7.1. Parking 7 – 3

- Sec. 7.1.1. Applicability ..... 7 – 3
- Sec. 7.1.2. Required Parking..... 7 – 3
- Sec. 7.1.3. Specialized Vehicle Parking Requirements .....7 – 7
- Sec. 7.1.4. Vehicle Parking Reductions ..... 7 – 8
- Sec. 7.1.5. Additional Vehicle Parking Provisions ..... 7 – 9
- Sec. 7.1.6. Vehicle Parking Location and Layout.....7 – 10
- Sec. 7.1.7. Vehicle Parking Lot Landscaping ..... 7 – 11
- Sec. 7.1.8. Bicycle Parking Facilities .....7 – 12
- Sec. 7.1.9. Vehicle Loading Areas ..... 7 – 13

## Article 7.2. Landscaping and Screening 7 – 14

- Sec. 7.2.1. Intent .....7 – 14
- Sec. 7.2.2. Applicability .....7 – 14
- Sec. 7.2.3. Administrative Alternate Findings .....7 – 14
- Sec. 7.2.4. Protective Yards .....7 – 15
- Sec. 7.2.5. Screening.....7 – 18
- Sec. 7.2.6. Stormwater Retention Ponds & Detention Basins .....7 – 19
- Sec. 7.2.7. Design and Installation.....7 – 22
- Sec. 7.2.8. Walls and Fences.....7 – 25

## Article 7.3. Signs 7 – 26

- Sec. 7.3.1. Applicability ..... 7 – 26
- Sec. 7.3.2. Signs Allowed by District..... 7 – 26
- Sec. 7.3.3. Additional Sign Types ..... 7 – 26
- Sec. 7.3.4. Wall Signs .....7 – 27
- Sec. 7.3.5. Projecting Signs ..... 7 – 28
- Sec. 7.3.6. Awning, Gallery, Marquee Signs ..... 7 – 29
- Sec. 7.3.7. Window Signs..... 7 – 29
- Sec. 7.3.8. Low Profile Ground Signs .....7 – 30
- Sec. 7.3.9. Medium Profile Ground Signs.....7 – 31
- Sec. 7.3.10. High Profile Ground Signs.....7 – 32
- Sec. 7.3.11. Tract Identification Signs.....7 – 33
- Sec. 7.3.12. A-Frame Signs .....7 – 34
- Sec. 7.3.13. Special Sign Types.....7 – 35
- Sec. 7.3.14. Off-Premise Signs.....7 – 39
- Sec. 7.3.15. Prohibited Signs ..... 7 – 40
- Sec. 7.3.16. General Sign Regulations.....7 – 41
- Sec. 7.3.17. Nonconforming Signs .....7 – 43

**Article 7.4. Site Lighting 7 – 44**

Sec. 7.4.1. Applicability ..... 7 – 44  
Sec. 7.4.2. Light Level Measuring..... 7 – 44  
Sec. 7.4.3. Prohibited Sources..... 7 – 44  
Sec. 7.4.4. Design and Installation Requirements..... 7 – 44  
Sec. 7.4.5. Parking and Pedestrian Areas..... 7 – 44  
Sec. 7.4.6. Flood Lights and Flood Lamps ..... 7 – 45  
Sec. 7.4.7. Vehicular Canopies ..... 7 – 46  
Sec. 7.4.8. Outdoor Recreation Fields and Performance Areas ..... 7 – 46  
Sec. 7.4.9. Signs..... 7 – 46  
Sec. 7.4.10. Building and Security Lighting.....7 – 47

**Article 7.5. Outdoor Display and Storage 7 – 48**

Sec. 7.5.1. Applicability ..... 7 – 48  
Sec. 7.5.2. Outdoor Display ..... 7 – 48  
Sec. 7.5.3. Outdoor Storage ..... 7 – 48

## Article 7.1. Parking

### Sec. 7.1.1. Applicability

#### A. General

No permit for the construction, reconstruction, extension, repair or alteration of any building, structure or use of land and no building or land or any part of any building or land, may be occupied or used until parking has been provided in accordance with the requirements of this UDO.

#### B. Additions

1. A building or site may be renovated or repaired without providing additional parking, provided there is no increase in gross floor area or improved site area.
2. When a building, use or site is increased in gross floor area or improved site area by up to 25% cumulatively, parking is required for the additional floor or site area only.
3. When the gross floor area or improved site area is increased by more than 25% cumulatively, both the existing use and the additional floor or site area must conform to the parking requirements of *Sec. 7.1.2.C*.

#### C. Change in Use

1. A change in use based on the parking table of *Sec. 7.1.2.C* must comply with the parking requirements unless the use has the same or a lesser parking demand than the previous use.
2. Where the required number of parking spaces for a new use according to *Sec. 7.1.2.C* is less than 125% of the parking spaces required for the existing use, no additional parking spaces shall be required.
3. Where required parking spaces for the new use exceed 125% of the required parking spaces for the existing use, additional parking shall only be required for the difference between the current parking spaces required and the parking spaces required for the new use.

#### D. Raleigh Street Design Manual

Except as otherwise provided in this UDO, all parking spaces and areas must comply with the Raleigh Street Design Manual.

### Sec. 7.1.2. Required Parking

#### A. Calculation of Required Parking

1. Parking shall be provided in accordance with *Sec. 7.1.2.C*. Where a use is not specifically listed or only a broad use category is shown, the Zoning Enforcement Administrator is responsible for categorizing the use in accordance with *Sec. 6.1.2*.
2. When a lot is used for a combination of uses, the parking requirements are the sum of the requirements for each use and no parking space for one use can be included in the calculation of parking requirements for any other use, except as allowed as in *Sec. 7.1.5.B*.
3. In determining the required number of parking spaces, fractional spaces are rounded to the nearest whole number, with one-half or more counted as an additional space.

#### B. Parking Administrative Alternative

The parking ratios of this UDO apply unless an alternate parking ratio is approved by the Planning and Development Officer in accordance with *Sec. 10.2.17* and the requirements below.

1. Alternate parking ratios may be approved where an applicant submits a parking study, prepared and sealed by a registered professional engineer in the State of North Carolina. Such a study must illustrate that the required parking ratios of *Sec. 7.1.2.C* do not accurately apply to a specific development proposal.
2. The data submitted must include, at minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses.
3. The data must be obtained either from relevant studies published in refereed journals or other secondary source of comparable authority; or from primary studies of no fewer than 3 comparable developments within the regional market. The regional market shall be the Consolidated Metropolitan Statistical Area.
4. The alternate shall not be subject to review by the Appearance Commission.

**C. Parking Requirements by Use**

USE CATEGORY Specific Use	Vehicle Parking (min)	Short-Term Bicycle Parking (min)	Long-Term Bicycle Parking (min)
<b>RESIDENTIAL</b>			
HOUSEHOLD LIVING, AS LISTED BELOW:			
Single-unit living (all parking on lot)	2 spaces per unit	None	None
Two-unit living (all parking on lot)	2 spaces per unit	None	None
Multi-unit living: 0 - 1 bedroom Multi-unit living: 2 bedrooms Multi-unit living: 3 bedrooms Multi-unit living: 4 bedrooms Multi-unit living: 5+ bedrooms	1 space per unit + 1 space per 10 units for visitors 2 spaces per unit + 1 space per 10 units for visitors 3 spaces per unit + 1 space per 10 units for visitors 4 spaces per unit + 1 space per 10 units for visitors 4.5 spaces per unit + 1 space per 10 units for visitors	1 space per 20 units, minimum 4	None
Manufactured home development	2 spaces per unit	None	None
Multi-unit supportive housing residence	1 space per 4 beds + 1 space, minimum 4 spaces	None	None
Supportive housing residence	1 space per 4 beds + 1 space, minimum 4 spaces	None	None
Accessory apartment, backyard cottage	1 space per unit	None	None
GROUP LIVING, EXCEPT AS LISTED BELOW:			
Boardinghouse	1.5 spaces per bedroom	None	None
Congregate care, nursing home	1 space per 3 units + 1 per 400 SF administrative, employee, staff work area	None	None
Dormitory, fraternity, sorority	1.5 spaces per bedroom	1 space per 20 bedrooms, minimum 6	1 space per 5 bedrooms (developments with 10 or more bedrooms)
Life care community	1 space per 3 units + 1 per 400 SF administrative, employee, staff work area - additional spaces required for nonresidential and residential uses at the ratio required by this table	Required for nonresidential and residential uses at the ratio required by this table	Required for nonresidential and residential uses at the ratio required by this table
SOCIAL SERVICE, EXCEPT AS LISTED BELOW:			
Emergency shelter type A, type B	1 space per 8 persons of approved capacity	None	None
Special care facility	1 space per 2 employees	None	None
<b>PUBLIC &amp; INSTITUTIONAL</b>			
CIVIC, EXCEPT AS LISTED BELOW:			
Cemetery	3 spaces per acre of land utilized as grave space (may be located on internal street adjacent to grave sites)	None	None
College, community college, university with >10,000 students or >50% of all students housed on campus	1 space per 600 SF of academic space plus 1 space per 5 seats in principal assembly room	1 space per 10,000 SF of academic space	1 space per 20,000 SF of academic space
College, community college, university with <10,000 students and <50% of all students housed on campus	1 space per 900 SF of academic space	1 space per 10,000 SF of academic space	1 space per 20,000 SF of academic space
Place of worship	1 space per 4 seats in principal assembly room	None	None
School, public or private (K-8)	1 space per 5 seats in the largest assembly room	1 space per 2 classrooms	3 spaces per classroom

USE CATEGORY Specific Use	Vehicle Parking (min)	Short-Term Bicycle Parking (min)	Long-Term Bicycle Parking (min)
School, public or private (9-12)	1 space per 600 SF of academic space	1 space per classroom	2 spaces per classroom
PARKS, OPEN SPACE AND GREENWAYS	None - additional spaces required for structures at the ratio required by this table	0.2 spaces per per acre of open space (excluding greenways), minimum 4 - additional spaces required for recreational uses at the ratio required by this table	None
MINOR UTILITIES	1 space per 400 SF of gross floor area (office)	None	None
MAJOR UTILITIES	1 space per 400 SF of gross floor area (office)	None	None
<b>COMMERCIAL</b>			
DAY CARE, EXCEPT AS LISTED BELOW:	1 space per 2 employees	None	1 space per 10,000 SF of gross floor area, minimum 4
Day care, home	None	None	None
INDOOR RECREATION, EXCEPT AS LISTED BELOW:	1 space per 300 SF of gross floor area	1 space per 5,000 SF of gross floor area, minimum 4	None
Bowling alley	5 spaces per lane	1 space per 5 lanes	None
Convention center, arena	1 space per 5 seats	None	1 space per 50,000 SF of gross floor area, minimum of 4
Movie theater or other indoor theater	1 space per 5 seats	1 space per 500 seats, minimum 4	None
MEDICAL, EXCEPT AS LISTED BELOW:	1 space per 400 SF of gross floor area	Minimum 4 spaces	1 space per 5,000 SF of gross floor area
Hospital	1 space per 2 beds	1 space per 10,000 SF of gross floor area, minimum 4	1 space per 70,000 SF of gross floor area, minimum 4
Medical, dental office	1 space per 300 SF of gross floor area	1 space per 10,000 SF of gross floor area, minimum 4	1 space per 10,000 SF of gross floor area, minimum 4
OFFICE, EXCEPT AS LISTED BELOW:	1 space per 400 SF of gross floor area	1 space per 10,000 SF of gross floor area, minimum 4	1 space per 5,000 SF of gross floor area, minimum 4
Call Center	1 space per 150 SF of gross floor area	1 space per 10,000 SF of gross floor area	1 space per 2,500 SF of gross floor area
OUTDOOR RECREATION, EXCEPT AS LISTED BELOW:	1 space per 500 SF of gross floor area plus 1 space per 1,000 SF of outdoor use area	1 space per 5,000 SF of site area, minimum 4	None
Golf course	4 spaces per hole plus 1 space per 500 SF of gross floor area	None	1 space per 6 holes, minimum 4
Golf driving range	1 space per tee	1 spaces per 5 tees, minimum 4	None
Outdoor sports or entertainment facility, outdoor theater	1 space per 5 seats	1 space per 500 seats, minimum 4	None

USE CATEGORY Specific Use	Vehicle Parking (min)	Short-Term Bicycle Parking (min)	Long-Term Bicycle Parking (min)
OVERNIGHT LODGING, EXCEPT AS LISTED BELOW:	1 space per room or bedroom	None	1 space per 20 rooms or bedrooms, minimum 4
Hostel	1 space per 10 beds, minimum of 2 spaces	1 space per 20 beds, minimum 4	1 space per 10 beds
PARKING	None	None	None
PASSENGER TERMINAL	1 space per 200 SF of waiting floor area plus 1 per 2 employees	1 space per 5,000 SF of gross floor area	1 space per 2,500 SF of gross floor area
PERSONAL SERVICE	1 space per 400 SF of gross floor area	1 space per 5,000 SF of gross floor area, minimum 4	None
RESTAURANT/BAR	1 space per 150 SF of gross floor area or 1 space per 5 seats, whichever is greater	1 space per 50,000 SF of gross floor area, minimum 4	1 space per 25,000 SF of gross floor area, minimum 4
RETAIL SALES, EXCEPT AS LISTED BELOW:	1 space per 300 SF of gross floor area plus 1 space for every 600 square feet of outdoor display area	1 space per 5,000 SF of gross floor area, minimum 4	None
Food truck	None	None	None
VEHICLE SALES/RENTAL	1 space per 1,000 SF of gross floor area or 1 space for every 4,500 square feet of vehicle display area, whichever is greater	None	None
<b>INDUSTRIAL</b>			
HEAVY INDUSTRIAL	1 per 600 SF of office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
LIGHT INDUSTRIAL	1 per 600 SF of office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
LIGHT MANUFACTURING	1 per 600 SF of office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
RESEARCH & DEVELOPMENT	1 per 600 SF of office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
SELF-SERVICE STORAGE	1 space per 100 storage units	None	None
VEHICLE SERVICE	1 space per 600 SF of gross floor area	None	1 space per 40,000 SF of gross floor area, minimum 4
WAREHOUSE & DISTRIBUTION	1 per 600 SF office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
WASTE-RELATED SERVICE	1 per 600 SF of office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
WHOLESALE TRADE	1 per 600 SF office space + 1 per 3,000 SF of additional indoor area	None	1 space per 40,000 SF of gross floor area, minimum 4
<b>OPEN</b>			
AGRICULTURE	None	None	None
RESOURCE EXTRACTION	1 per 2 employees, minimum 4	None	None

## D. Maximum Surface Parking Provided

Except for single- and two-unit living or for uses providing 10 or fewer surface parking spaces, when the surface parking provided to serve a use exceeds 150% of the required parking ratios as specified in Sec. 7.1.2.C., one of the following measures to mitigate the additional impervious surface must be utilized.

1. Detain stormwater runoff to pre-development levels for the 2-, 10- and 30-year storm event for the parking area above the maximum.
2. Provide elevated solar powered arrays in lieu of required landscaping plantings for the parking area above the maximum. The solar arrays shall be installed above a minimum of 50% of the parking area above the maximum.
3. All required interior landscaped islands as required in Sec. 7.1.7. must have an average width of 20 feet, with no dimension less than 8 feet in size. Required trees must be installed every 50 feet on center, with minimum of 300 square feet of landscaped area per tree.
4. An increase in tree conservation area of 5% of the property above the minimum requirement.

## Sec. 7.1.3. Specialized Vehicle Parking Requirements

### A. Downtown District (DX-)

#### 1. General Requirements

- a. One parking space is required per dwelling unit; however, no more than 2 on-site parking spaces per dwelling unit are allowed.
- b. No vehicle parking is required for the first 16 dwelling units.
- c. One parking space per 500 square feet is required for all nonresidential gross floor area or the minimum number of parking spaces set forth in Sec. 7.1.2.C., whichever is less.
- d. No vehicle parking is required for the first 10,000 square feet of gross floor area of any nonresidential use.
- e. No vehicle parking is required for the following uses and use categories up to 30,000 square feet of gross floor area provided when at least 25% of the ground floor of the building is devoted to such uses:
  - i. Indoor recreation;
  - ii. Personal service;

iii. Restaurant;

iv. Retail sales; and

v. Banks.

- f. No combination of the reductions in paragraphs Sec. 7.1.3.A.1.d. and Sec. 7.1.3.A.1.e. shall exceed 30,000 exempted square feet of gross floor area.
- g. No parking is required for an indoor movie theater.

#### 2. Parking Fee in Lieu

- a. At the discretion of the Planning and Development Officer, a fee may be paid in lieu of complying with the minimum parking requirements.
- b. The amount of payment for each required parking space is fixed by resolution adopted by the City Council, but in no case does the cost exceed the estimated, normal, current cost to the City of providing required parking spaces to serve the contemplated use.
- c. Payments collected by the City shall be kept separate from other revenue of the City. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in N.C. Gen. Stat. §159-30. Funds can only be used for the purchase of land or for the construction of new parking facilities within the DX- District.
- d. Any parking requirement satisfied in this manner shall run with the land and any subsequent change of use that requires more parking shall require subsequent action to satisfy the additional parking requirement.

### B. TOD Overlay District (-TOD)

#### 1. General Requirements

- a. One parking space is required per dwelling unit; however, no more than two on-site parking spaces per dwelling unit are allowed.
- b. No vehicle parking is required for the first 16 dwelling units.
- c. One parking space per 500 square feet is required for all nonresidential gross floor area or the minimum number of parking spaces set forth in Sec. 7.1.2.C., whichever is less.
- d. No vehicle parking is required for the first 10,000 square feet of ground story gross floor area that meets the ground story height and ground story transparency requirements for a mixed use building (see Sec. 3.2.6.).

- e. Surface parking associated with a nonresidential use may not exceed 100% of the requirement enumerated in *Sec. 7.1.2.C*. Parking spaces provided in an underground or structured parking garage do not count toward the maximum number of spaces permitted.

## 2. Parking Fee in Lieu

- a. At the discretion of the Planning and Development Officer, a fee may be paid in lieu of complying with the minimum parking requirements.
- b. The amount of payment for each required parking space is fixed by resolution adopted by the City Council, but in no case does the cost exceed the estimated, normal, current cost to the City of providing required parking spaces to serve the contemplated use.
- c. Payments collected by the City shall be kept separate from other revenue of the City. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in N.C. Gen. Stat. §159-30. Funds can only be used for the purchase of land or for the construction of new parking facilities within the same -TOD.
- d. Any parking requirement satisfied in this manner shall run with the land and any subsequent change of use that requires more parking shall require subsequent action to satisfy the additional parking requirement.

## C. Urban Frontage (-GR, -UL, -UG - SH)

1. One parking space is required per dwelling unit; however, no more than 2 on-site parking spaces per dwelling unit are allowed.
2. No vehicle parking is required for the first 16 dwelling units.
3. One parking space per 500 square feet is required for all nonresidential gross floor area or the minimum number of parking spaces set forth in *Sec. 7.1.2.C*, whichever is less.
4. No vehicle parking is required for the first 10,000 square feet of ground story gross floor area that meets the ground story height and ground story transparency requirements for a mixed use building (see *Sec. 3.2.6*).
5. Restaurants (regardless of size) within 100 feet of a Residential District, with hours of operation extending past 11 PM, must provide parking for the entire floor area devoted to the restaurant at a rate of 1 parking space per 150 square feet of gross floor area or 1 space per 5 seats, whichever is greater.

6. Urban Frontages in a DX- District shall use the requirements of *Sec. 7.1.3.A*.
7. Urban Frontages in a -TOD shall use the requirements of *Sec. 7.1.3.B*.
8. An uncovered outdoor dining area of no more than 25% of the area of any indoor dining is exempt from the calculation of required parking spaces. Any additional area shall provide parking at the indoor dining rate.

## Sec. 7.1.4. Vehicle Parking Reductions

### A. Proximity to Transit

1. A 10% reduction in the number of required parking spaces is allowed for uses with a main entrance within a walking distance of 1,320 feet of an operating transit stop or stops provided the stops are all within 1,320 feet walking distance of each other, with service from 6 AM to 8 PM where service intervals are no longer than 15 minutes during peak commute hours.
2. The transit reduction does not apply in a DX- District, -TOD or Urban Frontage.

### B. Affordable Housing

1. Required parking for an affordable housing development may be reduced to a rate of 1 parking space for each unit.
2. The affordable housing reduction applies only to required spaces for dwelling units. If required, visitor spaces must be provided at the standard rate.

### C. Senior Housing

1. Senior housing is only required to provide 1 space per dwelling or rooming unit.
2. The senior housing reduction applies only to required spaces for dwelling or rooming units. If required, visitor spaces must be provided at the standard rate.
3. The parking reduction for senior housing is only available for multi-unit living in an apartment building type.

**D. Private Car Sharing Program**

1. A reduction in the number of required parking spaces for residential units is allowed where an active on-site car-sharing program is made available for the exclusive use of residents.
2. The parking requirements for all dwelling units may be reduced by 5 spaces for each car-share vehicle provided. If required, visitor spaces cannot be substituted.

**Sec. 7.1.5. Additional Vehicle Parking Provisions**

**A. Shared Parking**

1. An applicant may request shared parking to meet the minimum vehicle parking requirements for mixed use projects or for multiple uses that are located near one another and which have different peak parking demands or operating hours.
2. Applicants wishing to use shared parking as a means of reducing the total number of required spaces may submit a shared parking analysis using the Urban Land Institute (ULI) Shared Parking Model (latest edition). The analysis must be prepared and sealed by a registered engineer in the State of North Carolina with transportation expertise.
3. The shared parking analysis must establish that the subject uses will use the shared parking spaces at different times of the day, week or month. A shared parking analysis shall at a minimum address:
  - a. The intensity and type of activities and the composition of uses;
  - b. Hours of operation of the uses;
  - c. The rate of turnover for proposed spaces;
  - d. Distances of shared parking spaces from the uses they serve; and
  - e. The anticipated peak parking and traffic loads for the site.
4. Reserved parking spaces for a specific tenant or dwelling unit may not be included in the shared parking calculation.

**B. Remote Parking**

1. Required parking spaces may be permitted on a separate site from the site on which the principal use is located if the remote parking complies with the following.

District/Frontage	Parking Lot must be within
DX-	2,640 feet
Urban Frontage	1,320 feet
-TOD	1,320 feet
RX-, OP-, OX-, NX-, CX-, IX-	660 feet
IH, CMP	660 feet
CP, AP, R-MP	Not allowed
R-1, R-2, R-4, R-6, R-10	By special use permit

2. Remote parking spaces are measured in walking distance from the nearest point of the remote parking area to the primary entrance of the use served.
3. Additional requirements for remote parking lots are provided under Sec. 6.4.7.C.

**C. Valet Parking**

Valet parking may be permitted as a means of satisfying the parking requirements where all of the following standards have been met:

1. An attendant is provided to park vehicles during all business hours of the use utilizing the valet parking.
2. An equivalent number of valet spaces are available to replace the number required on-site parking spaces.
3. Valet spaces do not require individual striping and may take into account the mass parking of vehicles.

**D. Tandem Parking**

1. Tandem parking is allowed for single-unit, two-unit and multi-unit living.
2. Two parking spaces in tandem must have a combined minimum dimension of 8.5 feet in width by 36 feet in length.
3. Both parking spaces in tandem must be assigned to the same dwelling unit.
4. Tandem parking may not be used to provide guest parking.

### E. Reserved Parking

Parking spaces may be reserved for a specific tenant or unit, provided that the following standards are not exceeded.

#### 1. Residential

- a. One space per efficiency or 1-bedroom multi-living dwelling unit.
- b. Two spaces per two-bedroom or greater multi-living dwelling unit.

#### 2. Nonresidential

No more than 1/3 of the total provided spaces may be reserved.

### F. Queuing Areas

1. Adequate space must be made available on-site for the stacking, storage and queuing of vehicles.
2. Vehicles using drive-thru facilities may not encroach on or interfere with the public use of streets and sidewalks by vehicles or pedestrians.
3. A restaurant with drive-thru facilities must provide at least 8 queuing spaces for vehicles when 1 drive-thru lane exists and 6 spaces at each drive-thru when more than 1 lane exists.
4. A bank with drive-thru facilities must provide at least 3 queuing spaces per drive-thru lane.

## Sec. 7.1.6. Vehicle Parking Location and Layout

### A. Location

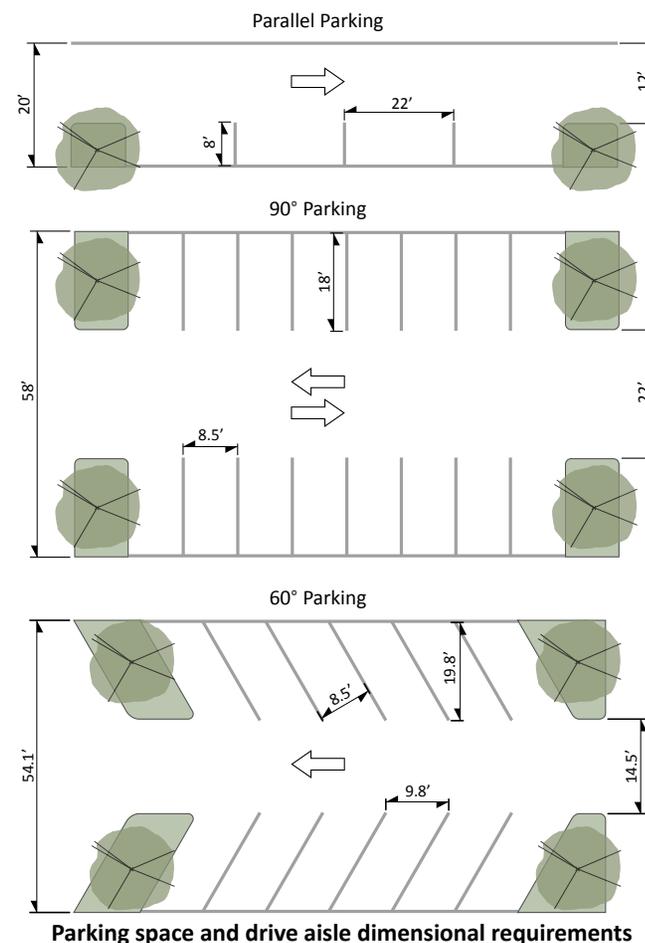
1. Required parking spaces must be located on the same lot they are intended to serve, except where specifically allowed under Sec. 7.1.5.B.
2. All on-site parking must be arranged so that no vehicle is forced onto any public street, not including an alley, to gain access from 1 parking aisle to another parking aisle.

### B. Layout

1. Parking spaces and drive aisles must meet the required dimensional standards. Parking spaces and drive aisles using dimensions other than those specified may be approved if prepared and sealed by a registered engineer in

the State of North Carolina with expertise in parking facility design, subject to a determination by the Public Works Director.

2. Within a structured parking facility, up to 30% of the total parking spaces provided may be compact spaces. No more than 2 compact parking spaces may abut each other. Compact spaces can be reduced to 7.5 feet in width and 15 feet in length. All compact parking spaces must be clearly and visibly striped and labeled for compact car use only. Other than the stall width and length reduction, compact parking spaces must comply with all other parking layout standards.



## Sec. 7.1.7. Vehicle Parking Lot Landscaping

### A. Intent

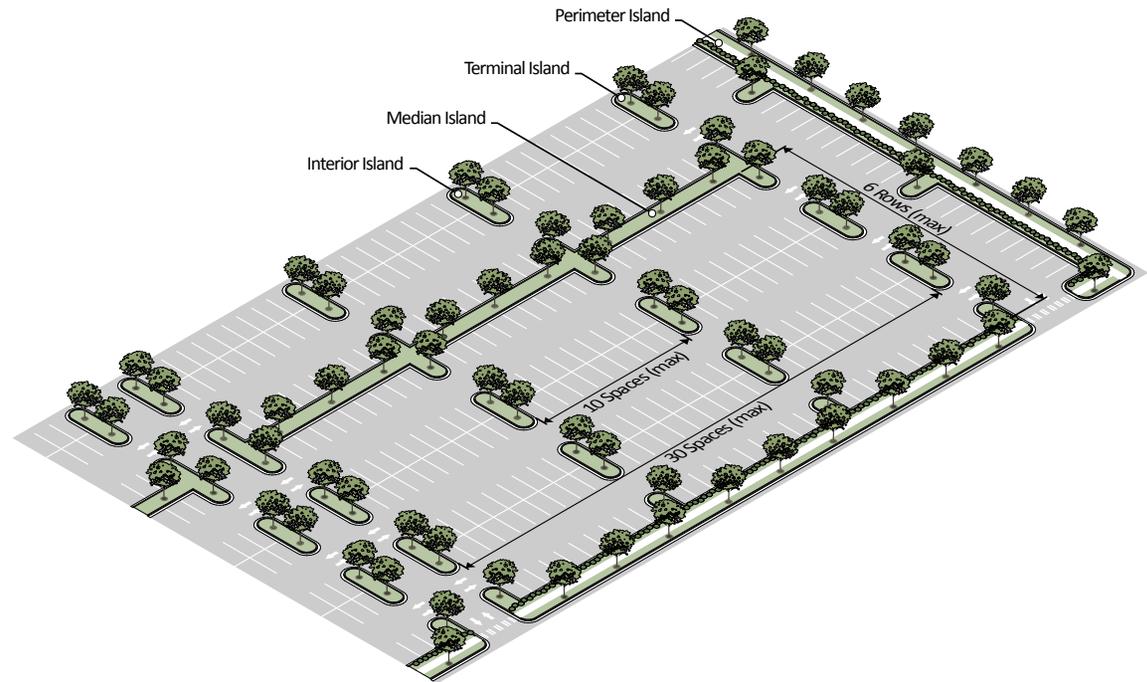
1. The intent of the vehicle parking lot landscaping requirements is to minimize the visual impact of large areas of vehicular parking as viewed from the public right-of-way and dissipate the effects of the urban heat island.
2. A well designed parking lot utilizes landscaped islands and clear delineations to break the parking lot into smaller segments.
3. Tree and shrub plantings should not interfere with the pedestrian circulation on the site.

### B. Applicability

1. This section applies to all on-site surface parking areas with more than 10 spaces. For purposes of this section, multiple platted lots contained on a single site plan and any separate parking areas connected with drive aisles are considered a single parking area.
2. At least 1 shade tree must be planted in each surface parking area with 10 spaces or less.
3. In an Urban Frontage or -TOD, this section applies only to on-site surface parking areas with more than 40 parking spaces. At least 1 tree must be planted for every 10 spaces in each surface parking area with 40 spaces or less.
4. All surface parking areas of any size within any district with frontage on any portion of a street right-of-of way (not including an alley) must be screened along the street edge by a Type C3 street protective yard under Sec. 7.2.4.B.

### C. Perimeter Islands

1. A landscape perimeter island shall be provided along primary internal access drives.
2. A landscaped perimeter island must be a minimum of 5 feet wide, landscaped with shrubs installed at a rate of 30 shrubs per 100 linear feet that under typical conditions can be expected to reach a height and spread of 3 feet within three years of planting. All shrubs shall be a minimum of 18



inches tall when planted. In lieu of planting a hedge, a wall at least three feet in height may be installed.

3. A perimeter island may also serve as the location for a sidewalk connecting the use and the street. In such case, the sidewalk shall be a minimum of 6 feet wide and the remaining planting area shall be no less than five feet wide.

### D. Interior Islands

1. A landscaped interior island must be provided every 10 parking spaces. Interior islands must be distributed evenly throughout the parking area.
2. An interior island must be a minimum of 8 feet in width and be a minimum of 300 square feet in area.
3. All rows of parking must terminate with a landscaped interior terminal island. No more than 30 parking spaces may be located between terminal islands.
4. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees.

## E. Median Islands

1. A landscape median island must be provided between every 6 single parking rows.
2. A landscape median island must be a minimum of 6 feet wide.
3. A median island may also serve as the location for a sidewalk connecting the parking and the use served by the parking area. The sidewalk must be a minimum of 5 feet wide. If trees or shrubs are planted in the median, the median with must be expanded by at least five feet.
4. Median islands may be consolidated or intervals may be expanded in order to preserve existing trees.

## F. Tree Coverage

1. Each interior island (and terminal interior island) must include at least 1 shade tree.
2. In no case shall there be less than 1 shade tree for every 2,000 square feet of parking area, except in an Urban Frontage or -TOD, where there shall be no less than 1 shade tree for every 4,000 square feet of parking area.

## G. Parking Lot Lighting

1. Lighting fixtures must be located at least 20 feet from a tree, measured from the pole of the lighting fixture to the trunk of the tree.
2. Additional requirements for lighting fixtures in parking lots are listed in *Article 7.4. Site Lighting*

## H. Tractor Trailer Staging, Loading and Parking in IH Districts

The parking lot landscaping provisions do not apply to areas specifically designated for tractor staging and loading areas and tractor trailer parking areas provided the staging, loading or parking area is screened along the street edge by a Type C1 or C2 street protective yard as set forth in *Sec. 7.2.4.B.*

## I. Administrative Alternate Findings

The Planning and Development Officer in accordance with *Sec. 10.2.17.* may approve an administrative alternate subject to all of the following findings:

- a. The approved administrative alternate meets the intent of the vehicle parking lot regulations;

- b. The approved administrative alternate conforms with the Comprehensive Plan and adopted City plans; and
- c. The approved administrative alternate is considered equal or better to the standard.

## Sec. 7.1.8. Bicycle Parking Facilities

### A. Exemptions

In no case is a single use or single lot required to provide more than 30 bicycle parking spaces. A mixed use facility shall not be required to provide more than 50 bicycle parking spaces.

### B. Required Types of Bicycle Parking Facilities

#### 1. General Provisions

Bicycle parking may be provided through various types of facilities, provided the facility meets the following:

- a. Bicycle racks are securely anchored, are easily usable with both U-locks and cable locks and support a bicycle at 2 points of contact to prevent damage to the bicycle wheels and frame.
- b. Spacing of the racks shall provide clear and maneuverable access.
- c. Where a bike can be locked on both sides without conflict, each side can be counted as a required space.
- d. Facilities may be placed on private property or within the public right-of-way. Short-term and long-term facilities must comply with the Raleigh Street Design Manual.

#### 2. Short-Term Bicycle Parking

Short-term bicycle parking must be publicly accessible and convenient. Short-term bicycle parking must be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

#### 3. Long-Term Bicycle Parking

Long-term bicycle parking provides employees, students, residents, commuters and others who generally stay at a site for several hours a protected and secure place to park. Required long-term bicycle parking must meet the following standards.

- a. Long-term bicycle parking must be covered and weather resistant.
- b. Long-term bicycle parking must be located no more than 300 feet from the building entrance or 660 feet from a parking structure.

made material or natural landscape edging materials that define and contain the stone or crush and run.

3. These regulations shall apply to manufactured homes.

### Sec. 7.1.9. Vehicle Loading Areas

#### A. Loading Not Required

If determined by the Planning and Development Officer, adequate space must be made available on-site for the unloading and loading of goods, materials, items or stock for delivery and shipping.

#### B. Location

If a loading area is provided, it must meet the following standards.

1. Loading areas must be located to the side or rear of buildings and be screened as set forth in *Sec. 7.2.5.B*.
2. Loading areas cannot be located in an A or B neighborhood transition zone.
3. With the exception of areas specifically designated by the City, loading and unloading activities are not permitted in the public right-of-way.
4. Loading and unloading activities may not encroach on or interfere with the use of sidewalks, drive aisles, queuing areas and parking areas by vehicles or pedestrians.

### Sec. 7.1.10. Parking for Single- and Two-Unit Living

All off street parking and driveway areas located in the front yard area that serve single- and two-unit living must meet the following standards.

1. Parking and driveway areas must be constructed of permanent non-erodible surface treatment as follows:
  - a. porous or semi-porous monolithic or paver materials;
  - b. masonry or concrete pavers;
  - c. poured concrete or asphalt; or
  - d. crushed stone or crush and run installed with a minimum depth of 4 inches.
2. Crushed stone or crush and run must be delineated with anchored man-

## Article 7.2. Landscaping and Screening

### Sec. 7.2.1. Intent

- A. The intent of the landscaping regulations is to provide meaningful and well designed screening and buffering.
- B. Tree and shrub plantings should not interfere with the safe vehicular and pedestrian circulation on the site.

### Sec. 7.2.2. Applicability

#### A. General

No permit for the construction, reconstruction, extension, repair or alteration of any building, structure or use of land and no building or land or any part of any building or land, may be occupied or used until landscaping has been provided in accordance with the requirements of this UDO.

#### B. Additions

1. A building or site may be renovated or repaired without providing additional landscaping, provided there is no increase in gross floor area or improved site area.
2. When a building or site is increased in gross floor area or improved site area by up to 25%, landscaping is required for the additional floor or site area only.
3. When the gross floor area or improved site area is increased by more than 25%, both the existing use and the additional floor or site area must conform to the landscaping requirements of this UDO.

#### C. Change in Use

A change in use does not trigger application of this section except when there is a specific use standard requiring landscaping for the new use.

#### D. Landscaping Limit

1. In no case shall required landscaping (parking lot landscaping, protective yards and tree conservation areas) exceed 30% of the total lot area, except in Watershed Protection Overlay Districts.

2. Where the required landscaping exceeds 30%, the individual requirements can be reduced on a pro rata basis to achieve the 30%.
3. The required tree conservation areas cannot be reduced by more than 50%.

### Sec. 7.2.3. Administrative Alternate Findings

The Planning and Development Officer in accordance with *Sec. 10.2.17.* may approve an administrative alternate subject to all of the following findings:

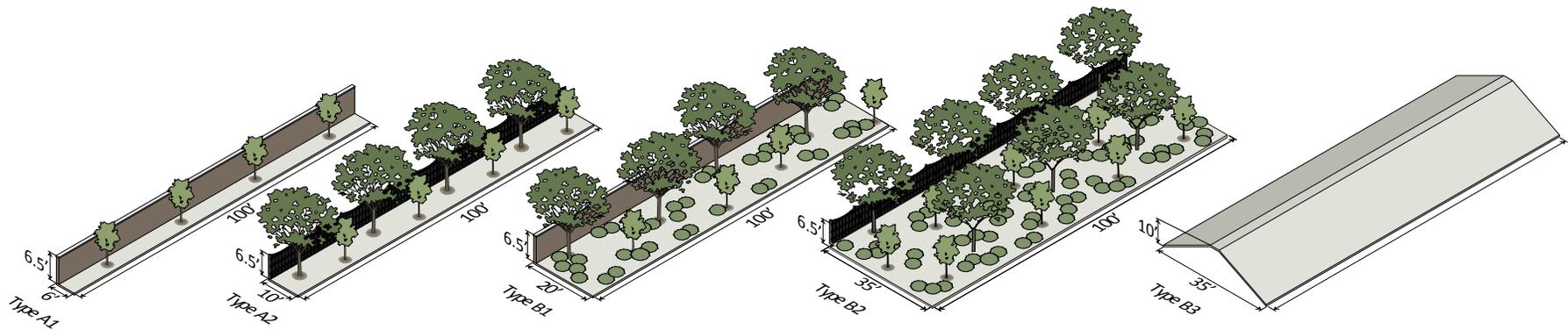
- A. The approved administrative alternate meets the intent of the landscaping and screening regulations;
- B. The approved administrative alternate conforms with the Comprehensive Plan and adopted City plans; and
- C. The approved administrative alternate is considered equal to or better than the standard.

**Sec. 7.2.4. Protective Yards**

**A. Transitional Protective Yards**

1. A transitional protective yard is required along perimeter lot lines:
  - a. For specific uses as set forth in *Chapter 6. Use Regulations* (type as specified); and
  - b. Where an IH District abuts any other district other than an IH District a Type B1 or B2 transitional protective yard must be installed.

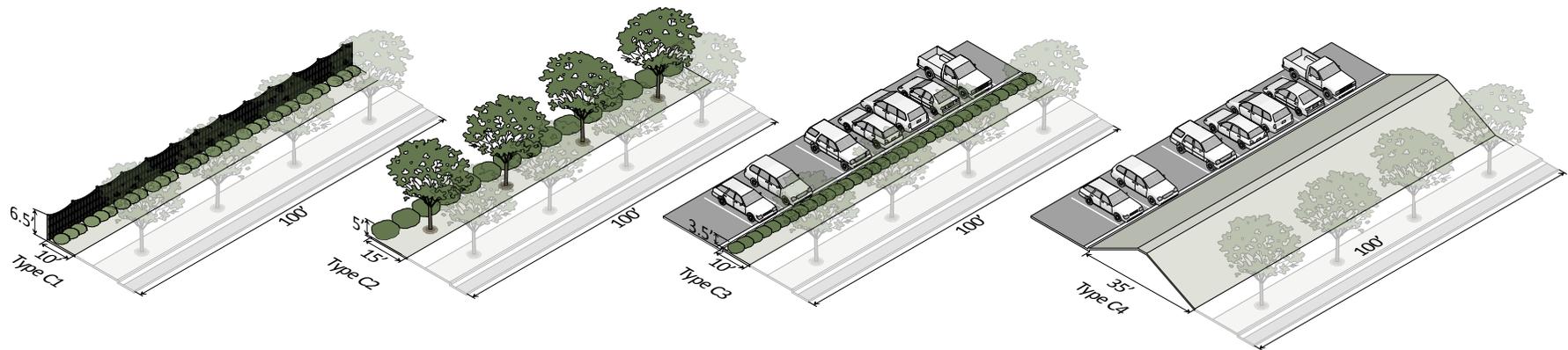
2. A transitional protective yard may be replaced with a tree conservation area that meets the requirements of *Article 9.1. Tree Conservation*



	Type A1	Type A2	Type B1	Type B2	Type B3
<b>Width (avg. min)</b>	6'	10'	20'	35'	35'
<b>Fence Height (min)</b>	Not allowed	6.5'	Not allowed	6.5'	Not required
<b>Wall Height (min)</b>	6.5'	6.5'	6.5'	6.5'	Not required
<b>Shade Trees (min per 100')</b>	Not required	4	4	6	Not required
<b>Understory Trees (min per 100')</b>	4	4	4	6	Not required
<b>Shrubs (min per 100')</b>	Not required	Not required	40	60	Not required
<b>Shrub Height (min)</b>	n/a	n/a	3'	3'	Not required
<b>Berm</b>	Not allowed	Not allowed	A berm in accordance with <i>Sec. 7.2.4.D.4.</i> may be installed, unless otherwise required. The installation shall not alter the yard width, fence, wall, shade and understory tree requirements	A berm in accordance with <i>Sec. 7.2.4.D.4.</i> may be installed, unless otherwise required. The installation shall not alter the yard width, fence, wall, shade and understory tree requirements	A berm shall be installed in accordance with <i>Sec. 7.2.4.D.4.</i> except the minimum height of the berm shall be 10' measured perpendicular to the crown

**B. Street Protective Yard**

1. A street protective yard is required along the edge of the street right-of-way:
  - a. For specific uses as set forth in *Chapter 6. Use Regulations* (type as specified); and
  - b. Where an IH District is across the street from any other district other than an IH District, a Type C1 or C2 street protective yard must be installed.
2. A required street protective yard may be replaced with a tree conservation area that meets the requirements of *Article 9.1. Tree Conservation*
3. The protective yards in Special Highway Overlay Districts 1 and 2 (*Sec. 5.3.1.D.*) take the place of any street protective yard required in *Sec. 7.2.4.B.* below.



	Type C1	Type C2	Type C3	Type C4
<b>Width (avg. min)</b>	10'	15'	10'	35'
<b>Fence Height (min)</b>	6.5'	Not required	Not required	Not required
<b>Wall Height (min)</b>	6.5'	Not required	In lieu of planting shrubs, a 3.5' wall may be installed	Not required
<b>Shade Trees (min per 100')</b>	Not required	4	Not required	Not required
<b>Understory Trees (min per 100')</b>	Not required	Not required	Not required	Not required
<b>Shrubs (min per 100')</b>	30	15	30	Not required
<b>Shrub Height (min)</b>	3'	5'	3.5'	Not required
<b>Berm</b>	Not allowed	A berm in accordance with <i>Sec. 7.2.4.D.4.</i> may be installed, unless otherwise required. The installation shall not alter the yard width and shade tree requirements	Not allowed	A berm shall be installed in accordance with <i>Sec. 7.2.4.D.4.</i> except the minimum height of the berm shall be 10' measured perpendicular to the crown

### C. Location

1. Protective yards must be located within the outer perimeter of the lot, parallel to and extending to the property boundary line. A required protective yard must be provided along the entire frontage immediately abutting the property line.
2. The width of a protective yard is calculated on the average width per 100 feet or portion of protective yard. The minimum width of the protective yard at any one point shall not be less than one-half the required width of the protective yard.
3. A protective yard may not be located on any portion of an existing, dedicated or reserved public right-of-way.
4. A protective yard is determined exclusive of any required setback; however, the required protective yard may be located wholly or partially within a required setback.

### D. Encroachments

#### 1. General

- a. No building or structure on the subject site may be located closer than 10 feet to a protective yard.
- b. Breaks for pedestrian and vehicle access are allowed in a protective yard.
- c. The parking of vehicles and the placement of buildings or structures is prohibited in a protective yard. All parking and building setbacks apply.

#### 2. Walls

Walls in a protective yard must meet the following.

- a. Walls must be closed and not exceed a maximum height of 8 feet.
- b. Walls shall be compatible with the principal building in terms of texture, quality, material and color.
- c. Walls must be constructed of high quality materials including one or a combination of the following: decorative blocks; brick; stone; cast-stone; architectural block; split-faced block; stucco over standard concrete masonry blocks; or glass block in a structurally safe and attractive condition.

- d. No walls containing more than 50% exposed standard concrete masonry blocks are permitted, whether painted or not.
- e. Alternative wall materials may be approved by the Planning and Development Officer.
- f. No wall can be located within any required drainage or utility easement or similar City of Raleigh easement or within any tree conservation area.

### 3. Fences

Fences in a protective yard must meet the following.

- a. Fences must be closed and not exceed a maximum height of eight feet.
- b. Fences must be constructed of wood, composite fencing or PVC vinyl with the finished face located towards the adjacent property.
- c. Alternative fence materials may be approved by the Planning and Development Officer.
- d. No fence can be located within any required drainage or utility easement or similar City of Raleigh easement or within any tree conservation area.

### 4. Berms

Where allowed, a berm in a protective yard must meet the following.

- a. A berm cannot be built in any protective yard whenever the protective yard is also a tree conservation area.
- b. Berms shall have a minimum average height of 3 feet, measured perpendicular to the center of the crown.
- c. The berm must contain a rounded crown suitable for planting and a stabilized side slope of no greater than three-to-one. A steeper side slope may be used in exceptional cases when all of the following are met:
  - i. This steeper slope is sufficiently stabilized; and
  - ii. Physical constraints of the site prevent the use of a flatter slope.
- d. The berm shall be planted with  $\frac{3}{4}$  of the required number of shrubs.
- e. In a C2 street protective yard, shrubs planted on a berm may have a lesser mature height; provided that the combined height of the berm and planting after 3 years is 5 feet.
- f. Berms may be permitted to meander and may be permitted to be discontinuous when approved by the Planning and Development Officer.

## 5. Grade Change

- a. In lieu of a wall or fence, a natural or man-made grade separation of at least 6 feet in elevation may be provided.
- b. The side slopes of the grade change cannot be greater than three feet of horizontal change for each foot of vertical rise.
- c. The developing property must be located at an elevation lower than the property to be screened and the change in grade achieves a similar screening effect as the wall or fence.

## Sec. 7.2.5. Screening

### A. Drive-Thru Facilities

Where allowed, drive-thru windows and lanes must be designed to adhere to the following standards:

1. In the DX- District and on any Urban Frontage, drive-thru windows and lanes may not be placed between the right-of-way of the street and the associated building. Drive-thru windows and lanes associated with buildings must be placed to the side or rear of the building.
2. Where drive-thru windows and lanes are allowed to be placed between the right-of-way of the street and the associated building, the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way (not including an alley), must be screened.
3. Screening must be a continuous compact evergreen hedge. At the time of installation, such screening must be at least 36 inches in height and reach a height of 48 inches within 3 years of planting.
4. In lieu of compact evergreen hedge, a screening wall with a minimum height of 48 inches may be installed. The wall must be compatible with the principal building in terms of texture, quality, material and color.
5. No drive-thru window is permitted on the side of a building facing any Residential District.

### B. Loading Areas

1. Outdoor loading areas 50 square feet or larger not screened by an intervening building must be screened from view from adjacent property or public street right-of-way for their entire length.

2. Enclosed loading areas must be screened with a roll down door or other opaque screen.
3. Unenclosed loading areas must be screened by a wall totaling 8 feet in height. Walls shall be compatible with the principal building in terms of texture, quality, material and color.
4. Planting material must be provided so that no more than two-thirds of the surface area of the screening wall is visible at the time of maturity of the plants.
5. Screening may also be accomplished with evergreen plant material that can be expected to reach a height of 8 feet with a spread of 4 feet within three years of planting.

### C. Service Areas

1. Trash collection, trash compaction, recycling collection and other similar service areas shall be located to the side or rear of buildings and must be screened from view from adjacent property or public street right-of-way (not including an alley).
2. Service areas that are fully integrated into a building must be screened with a roll down door or other opaque screen.
3. Service areas that are not integrated into a building shall be screened from three sides by a wall at least 6 feet in height and on the fourth side by a solid gate at least 6 feet in height. The gate and wall shall be maintained in good working order and shall remain closed except when trash pick-ups occur. The wall and gate shall be compatible with the principal building in terms of texture, quality, material and color.

### D. Mechanical Equipment

#### 1. Exemptions

Free-standing or roof-mounted sustainable energy systems are exempt from these screening requirements.

#### 2. Roof-Mounted Equipment

- a. Roof-mounted equipment shall be screened from ground level view from adjacent property or adjacent public street right-of-way (not including an alley).

- b. New buildings shall provide a parapet wall or other architectural element that screens roof-mounted equipment from view.
- c. For existing buildings with no or low parapet walls, roof-mounted equipment shall be screened on all sides by an opaque screen compatible with the principal building in terms of texture, quality, material and color.

### 3. Wall-Mounted Equipment

- a. Wall-mounted equipment shall not be located on any surface that directly faces a public right-of-way (not including an alley).
- b. Wall-mounted equipment located on any surface that is visible from a public right-of-way (not including an alley) must be fully screened by landscaping or an opaque screen compatible with the principal building in terms of texture, quality, material and color.

### 4. Ground-Mounted Equipment

- a. Ground-mounted equipment screening shall be as high as the highest point of the equipment being screened.
- b. Screening shall consist of landscaping or an opaque screen compatible with the principal building in terms of texture, quality, material and color.

## E. Utility Service Areas

- 1. Utility service areas located outside of the public right-of-way that exceed 42 inches in height and 42 inches in any other dimension must be screened from the public right-of-way.
- 2. Screening shall consist of landscaping or a wall or fence compatible with the principal building in terms of texture, quality, material and color.
- 3. Utility service areas must be located an adequate distance from the public right-of-way to allow for any required screening to be installed without encroaching into the public right-of-way.
- 4. Screening is not required for utility service areas located more than 50 feet from the public right-of-way.

## Sec. 7.2.6. Stormwater Retention Ponds & Detention Basins

### A. Applicability

All stormwater retention ponds and detention basins permitted, constructed or modified to a cumulative extent greater than 50% of their original size shall be screened for their entire length as set forth in *Sec. 7.2.6.C*. When amenity features are provided as set forth in *Sec. 7.2.6.B.*, no screening of the stormwater control facility is required.

### B. Amenity Provisions

Permanent stormwater retention ponds and detention basins may be supplemented with certain features which enable the facility to function as an amenity in addition to its primary function as a stormwater device. In situations where amenity features are provided consistent with these provisions, no screening of the stormwater control facility from on-site or off-site views shall be required. In the event a permanent stormwater retention pond or detention basin loses a feature by which the facility qualifies as an amenity, the feature shall be restored within 30 days or the facility shall be subject to the screening provisions listed in *Sec. 7.2.6.C*.

#### 1. Basic Amenity Features

To qualify as an amenity, the following basic amenity features must be provided within any stormwater control facility.

- a. Integration of the permanent stormwater retention pond or detention basin into the design of public areas within the site or development through the use of appropriate placement, common building materials, textures, features or other treatments intended to lend architectural significance to the stormwater control facility. For the purposes of this section, "integration" shall mean at least two of the following 3 elements:
  - i. Proximate placement of the stormwater facility to the principal structure;
  - ii. Provision of pedestrian access to the facility through installation of a delineated walk or trail from the principal structure; or
  - iii. Utilization of similar planting materials and building materials as used in the principal structure.

- b. No fence may be installed around the permanent stormwater retention pond or detention basin that acts to prevent pedestrian access to the facility from the site or development where it is located; in cases where a fence is needed to restrict access, the fence shall be screened in accordance with the screening provisions described in Sec. 7.2.6.C.
- c. Rock riprap or other "hard armoring" is limited to 10% or less of the entire surface area of the stormwater control facility above the low pool line.
- d. Permanent stormwater retention ponds and detention basins must incorporate features designed to reduce mosquito populations through provision of non-chemical mosquito mitigation measures, including but not limited to: cyclical alteration of the pond level, installation of aeration/agitation features to disrupt larval growth, providing nesting boxes for mosquito-predacious birds or bats or stocking ponds with mosquito-predacious fish (e.g. *Gambusia affinis holbrooki*).

## 2. Supplemental Amenity Features

In addition to the basic requirements described above, a permanent stormwater retention pond or detention basin must also provide supplemental features to be considered an amenity. The types of supplemental amenity features differ based upon the type of stormwater control facility.

### a. Permanent Retention (Wet) Ponds

To be considered as an amenity feature, permanent retention ponds must;

- i. Retain water within a permanent pool;
- ii. Maintain slopes of 4:1 or shallower to a distance of 10 feet below the median pool line (beyond which slopes may become steeper); alternatively, a retaining wall may be incorporated into a portion of the facility, provided the design of walls are compatible with the principal building in terms of texture, quality, material and color;
- iii. Include horizontal curves or other sculptural elements within the shape of the facility so as to avoid a simple square or round shape; and

- iv. Provide at least two of the following 4 features:
  - a) Inclusion of an active water feature (i.e., aerator/fountain/waterfall) within or adjacent to a permanent pool;
  - b) Pedestrian access trails to and around the stormwater control facility from the existing proposed pedestrian network associated with the site or development. Trails are not required to meet the minimum specifications for sidewalks or multipurpose trails as described within the City's standard specifications and details and may be constructed of any discernible, leveled, and stable surface material, including but not limited to: brick or masonry, gravel, mulch, wood chips, mowed grass or low groundcover;
  - c) Provision of riparian plant materials throughout the stormwater control facility to prevent erosion and add visual interest and additional perimeter plantings consisting of at minimum 3 understory trees or 2 shade trees totaling 8 inches in caliper at time of planting, and four shrubs for every 100 linear feet equivalent to the pond's maximum pool circumference and located no more than 75 feet from the pond's maximum pool line; or
  - d) Inclusion of other permanent, pedestrian-oriented features, including but not limited to: seating, dining tables and mounted trash cans, in areas around or proximate to the stormwater control facility.

### b. Detention (Dry) Basins

To be considered as an amenity feature, detention ponds must:

- i. Not contain water on a permanent basis;
- ii. Provide a 100% vegetative cover capable of withstanding extended periods of inundation, except in spaces designed for specific recreational uses (e.g., baseball fields);
- iii. Maintain slopes of 4:1 or shallower; alternatively, a retaining wall may be incorporated into a portion of the facility, provided the design of provided the design of walls are compatible with the principal building in terms of texture, quality, material and color; and

- iv. Provide at least 2 of the following 3 features:
  - a) Pedestrian access trails to the stormwater control facility from the existing and/or proposed pedestrian network associated with the site or development. Trails are not required to meet the minimum specifications for sidewalks or multipurpose trails as described within the City's standard specifications and details and may be constructed of any discernible, leveled, and stable surface material, including but not limited to: brick or masonry, gravel, mulch, wood chips, mowed grass;
  - b) Inclusion of other permanent, pedestrian-oriented features, including but not limited to: seating, dining tables and mounted trash cans, in areas around or proximate to the stormwater control facility; or
  - c) Grading and slopes of 8:1 or shallower which will allow utilization of the facility as an area for recreation when not in use as a detention facility (except on the dam structure and as is necessary to tie the dam back to existing grades); alternatively, a retaining wall may be incorporated into a portion of the facility, provided the design of walls are compatible with the principal building in terms of texture, quality, material and color.

### 3. Incentives

When a permanent stormwater retention pond or detention basin provides amenity features in compliance with the minimum requirements of this UDO, then the following provisions may also apply:

- a. The permanent stormwater retention pond and detention basin and related facilities, including amenity features, may be placed within required landscaping areas, including but not limited to: street protective yards, transitional protective yards and parking lot landscaping areas, (except in tree conservation areas adjoining thoroughfares, within areas zoned for resource management, tree protection areas and in natural protective yards); and
- b. When a permanent stormwater retention pond or detention basin is located within a required landscaping area, the portion of land associated with or adjacent to the stormwater control facility is only required

to meet 80% of the minimum planting requirements of the required landscaping area.

### C. Screening Requirements

When amenity features are not provided as set forth in *Sec. 7.2.6.B.*, screening of the stormwater control facility is required as set forth below.

1. All vegetative screening shall be 75% locally-adapted evergreen species.
2. All vegetative material shall be planted so as to attain a screen occupying at least 75% of a vertical plane around the perimeter of the facility to an average mature height of 6 feet above grade.
3. Screening shall be required around the base of the dam structure (as applicable), but not on the dam structure, with those plant materials in immediate proximity to the dam characterized by shallow, non-invasive root systems.
4. Screening shall not be required within required facility inlets or facility outlets or within a maintenance access path provided that such path does not exceed 12 feet in width; in all other instances, at an average mature height of planting, the maximum open horizontal space between vegetative screening materials shall not be more than 2 feet in width.
5. Vegetative material composing the screen shall be selected and installed so as to exhibit variety in texture, color, spread and height by using ornamental or deciduous shade trees in combination with evergreen materials.
6. In some cases, vegetative material may be placed in clusters or groups to add additional visual interest as well as to achieve intermittent levels of vertical height; and
7. In situations where the stormwater control facility utilizes a fence, all vegetative material associated with screening the facility shall be located outside the fence.
8. In situations where a fence and gate are proposed, the fence and gate shall be colored black, forest green, dark brown or similar dark color, unless the fence is constructed of masonry, wood or similar natural material, in which case it may be left to weather naturally.

## Sec. 7.2.7. Design and Installation

### A. Certificate of Compliance Required

1. The Planning and Development Officer cannot issue a certificate of compliance until all landscaping has been installed in accordance with the requirements of this UDO.
2. A temporary certificate of compliance may be issued when the Planning and Development Officer determines that due to the unavailability of plant material or weather concerns, planting landscaping would jeopardize the health of plant materials for a period of up to 1 year following the date of application for a certificate of compliance. The applicant shall make the following arrangements to secure a temporary certificate of compliance.
  - a. Produce a contract binding for 1 year from the date approved by the City, for the completion of the landscape work. Such contract shall specify that the work shall be completed before or during the year immediately following the date of application for a certificate of compliance. The City shall not be a party or a third party beneficiary to the contract.
  - b. The applicant shall also agree in writing that they, their successors or assigns, shall provide the required planting within the one-year period, as a condition for obtaining a certificate of compliance for the principal use so long as the principal use shall continue. The applicant shall also agree that the principal use shall be discontinued if the required planting is not provided. Violations of these provisions shall constitute an unauthorized illegal occupancy of the principal use.

### B. Sight Triangle

1. Landscaping shall not obstruct the views of motorists using any street, driveway, parking aisles or the approach to any street intersection.
2. All landscaping installations must comply with the sight triangle requirements of the Raleigh Street Design Manual.

### C. Plant Material

#### 1. General Provisions

- a. Plant materials must be hardy to zone 7 in accordance with the U.S. Department of Agriculture's Plant Hardiness Zone Map.

- b. Plant materials must be able to survive on natural rainfall once established with no loss of health.
- c. Tree height is measured from the top of the root ball to the tip of the main stem.
- d. Trees cannot be planted within a tree conservation area or the critical root zone of an existing tree and must be planted at least 15 feet from any other tree and no further than 50 feet from any other tree, measured from tree trunk to tree trunk.

#### 2. Shade Trees

- a. All shade trees planted to meet the landscaping requirements must be a locally adapted species with an expected mature height of 35 feet or greater and an expected mature crown spread of at least 30 feet or greater unless subject to an overhead power line in which case the mature height may be less.
- b. All shade trees planted to meet the landscaping requirements must have a minimum caliper of 3 inches and be at least 10 feet tall at time of planting.

#### 3. Understory Trees

- a. Understory trees planted to meet the landscaping requirements must be a locally-adapted species with an expected mature height of at least 15 feet and an expected mature crown spread of at least 15 feet.
- b. Single-stem understory trees planted to meet the landscaping requirements must have a minimum caliper of 1½ inches and be at least 6 feet tall at time of planting.
- c. Multi-stem understory trees planted to meet the landscaping requirements must be at least 6 feet tall at time of planting.

#### 4. Additional Requirements for Trees in a Protective Yard

- a. In a protective yard, 50% of required trees shall be locally-adapted evergreen species.
- b. Trees shall be distributed so that there are no horizontal gaps between trees greater than 30 feet, measured along the property line.

## 5. Shrubs

### a. Parking Area

In a parking area, all shrubs planted to meet the landscaping requirements shall be of a species that under typical conditions can be expected to reach a height and spread of 3 feet within three years of planting. All shrubs shall be a minimum of 18 inches tall when planted.

### b. Protective Yard

- i. In a protective yard, all shrubs planted to meet the landscaping requirements shall be evergreen and be of a species that under typical conditions can be expected to reach a height and spread of three feet within 3 years of planting. All shrubs shall be a minimum of 18 inches tall when planted.
- ii. Shrubs planted in a Type C2 street protective yard shall be of species that under typical conditions can be expected to reach a height and spread of 5 feet within three years of planting. All shrubs shall be a minimum of three feet tall when planted.
- iii. In a street protective yard, shrub planting must form at least 1 continuous row of shrubs spaced five feet on center across the entire protective yard except for driveways.
- iv. Shrubs cannot be planted within the critical root zone of any tree.
- v. Where a protective yard is also a tree conservation area, shrubs must be planted adjacent to and outside the tree conservation area.

## 6. Planting in Easements

No required landscaping or screening shall be planted inside utility and drainage easements, excluding overhead easements, without the consent of the City and the easement holder.

## D. Maintenance of Landscaping

### 1. Responsibility

The owner or tenant is responsible for maintaining all required landscaping in good health. Any dead, unhealthy or missing landscaping must be replaced with landscaping that conforms to this UDO within 30 days (or within 180 days where weather concerns would jeopardize the health of

plant materials). In the event that required landscape is severely damaged due to an unusual weather occurrence or other act of nature, the owner or tenant may have 2 years to replace the required landscaping.

### 2. Soil Erosion

All planting areas must be stabilized from soil erosion immediately upon planting and must be maintained for the duration of the use.

### 3. Pruning and Trimming

- a. All required landscaping shall be allowed to reach its required size and shall be maintained at that required size.
- b. Except for trimming and pruning done in strict accordance with the terms, conditions and provisions of a permit issued by the City Forestry Specialist or pruning and trimming done under an issued permit in strict accordance with the line clearance policies and standards governing such activities established pursuant to Part 9, chapter 8, required landscaping shall not be cut or excessively trimmed or otherwise damaged so that their natural form is impaired.
- c. A violation of this section shall subject the violator to a civil penalty of a minimum of \$1,000 for the first tree plus \$100 per caliper inch of any other tree unlawfully pruned damaged or excessively trimmed.
- d. This civil penalty shall be processed as set forth in *Sec. 10.4.2*. In addition to this civil penalty, if more than 50% of the crown of a tree is removed within a continuous five-year period or more than 40% of the critical root zone of the tree is subjected to tree disturbing activity or if more than one-third of the circumference of the tree is exposed by pruning cuts, the owner of real property, where a violation has occurred, shall replace each unlawfully pruned or other mechanically wounded, damaged, excessively trimmed or removed tree with a tree or trees of equal diameter.
- e. Any replacement tree shall have a minimum caliper of three inches and be at least 10 feet tall at time of planting. Any replacement tree not planted in the original location shall be planted in a planting area of at least 200 square feet in area with minimum dimension of 10 feet.
- f. If the property of which the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees cannot be planted on adjoining street right-of-way,

then in lieu of such replacement trees, a fee equal to \$100 per caliper inch of replacement trees shall be paid to the City.

- g. The City Forestry Specialist may require crown restoration and crown reduction for any unlawfully pruned damaged or excessively trimmed tree. All such corrective pruning shall be done under the supervision of a certified arborist.

#### 4. Excessively Trimmed

The pruning, cutting or otherwise damaging of the natural form of a tree when it meets one or more of the following.

- a. Removes more than 25% of the crown system of a tree within a continuous 5-year period.
- b. Removes, cuts or covers more than 25% of the root system of a tree within a continuous five-year period.
- c. Fails to conform to the pruning cuts methods set forth in the current edition of "Tree, Shrub and Other Woody Plant Maintenance—Standard Practices" of the American National Standards Institute.
- d. Is made for a purpose other than "hazard pruning," or "utility pruning," or "maintenance pruning" as set forth in the current edition of "Tree, Shrub and Other Woody Plant Maintenance—Standard Practices" of the American National Standards Institute.
- e. Is crown reduction, heading, vista pruning or pollarding as set forth in the current edition of "Tree, Shrub and Other Woody Plant Maintenance—Standard Practices" of the American National Standards Institute.

#### E. Credit for Existing Vegetation

1. Existing trees and shrubs that meet the requirements of this Article may be preserved to satisfy the landscaping requirements.
2. Credit toward the required number of trees or shrubs will be given on a tree-for-tree basis for each preserved tree or shrub. Where existing native vegetation does not meet the required landscaping standards, landscaping that meets the requirements of this Article must be installed.
3. No credit is allowed for any tree or shrub if the tree or shrub is unhealthy or dead or is hazardous. The death of or replacement of any preserved tree or shrub which was used for credit requires the owner to plant new trees equal

to the number of credited trees; such plantings must meet the requirements of this Article.

4. In the event that existing native habitat or vegetation has been credited and is subsequently removed or dies, it shall be replaced with landscaping that meets the requirements of this Article.
5. Supplemental landscaping may be required, if it can be reasonably inferred that after five years, the existing native habitat or vegetation will not continually provide a year-round foliage screen between properties.
6. The critical root zone of each preserved tree must be entirely protected with no tree disturbing activity within any critical root zone.
7. During construction, tree protection fences must be used.

#### F. Replacement by Condemnor

Whenever any condemnor acquires property through eminent domain it shall be the responsibility of the condemnor to replace, in accordance with the provisions of this UDO, those complying elements which were removed unless a less stringent standard is required.

## Sec. 7.2.8. Walls and Fences

### A. Applicability

The following requirements apply to walls and fences located outside of a protective yard or required screening area.

### B. General Standards

1. Fences and walls must be constructed of high quality materials including 1 or a combination of the following: decorative blocks; brick; stone; cast-stone; architectural block; split-faced block; stucco over standard concrete masonry blocks; glass block; wood; wrought iron; composite fencing; wire, PVC vinyl; aluminum; metal or other material approved by the Planning and Development Officer.
2. No wall or fence may be located within any required drainage or utility easement or similar City of Raleigh easement.
3. Barbed wire or concertina wire may be allowed in accordance Sec. 13-3011.
4. Except in an IH District, chain-link fences are not allowed in any front or side street setback.
5. The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections or a change in material.
6. Except in an IH District, a wall or fence not more than 6 feet height may be located in a front or side street setback, provided the opacity of the wall or fence above 4 feet in height exceeds 50%.
7. A wall or fence may not exceed 8 feet in height in a side or rear setback.

### C. Fences and Walls Adjacent to Thoroughfares

1. A fence or wall located within 20 feet of a Thoroughfare right-of-way shall either be less than 42 inches in height or situated at least 15 feet from the edge of the right-of-way and be screened with evergreen planting materials, so that no more than one-fourth of the fence or wall surface area will be visible from the Thoroughfare within 3 years of erection of the fence or wall.
2. All fences and walls that are more than 42 inches in height and are located between 20 and 40 feet from any Thoroughfare right-of-way shall be installed with planting materials, so that no more than one-third of the fence

or wall surface area will be visible from the Thoroughfare within three years of erection of the fence or wall. 40% of this plant material may be deciduous. Decorative fences that are more than 50% open shall be exempt from these provisions.

### D. Retaining Walls

Retaining walls that are located within 30 feet of a public sidewalk shall be required to adhere to the following.

1. A retaining wall may not exceed a continuous, uninterrupted height of 15 feet. Additional height may be permitted, provided the wall contains a 2-foot step back for each 15 feet of wall height.
2. This regulation shall not apply to walls associated with culverts or stream crossings or to transportation improvements, such as bridge overpass structures for streets or railroads.

## Article 7.3. Signs

### Sec. 7.3.1. Applicability

No sign may be altered, replaced, converted, changed or otherwise modified except in accordance with the requirements of this UDO.

### Sec. 7.3.2. Signs Allowed by District

Signs are allowed by district as set forth in the table below.

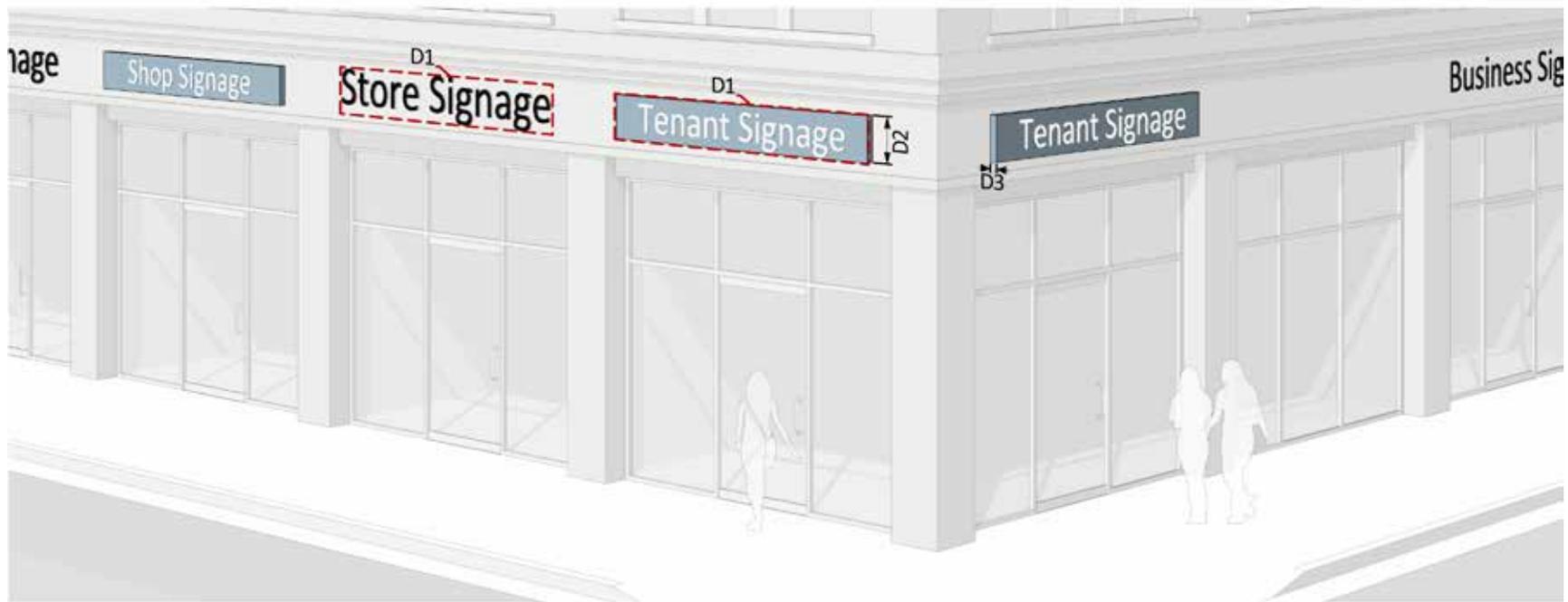
	RESIDENTIAL					MIXED USE (NO FRONTAGE)							SPECIAL					FRONTAGE						Definition/ Standards		
	R-1	R-2	R-4	R-6	R-10	RX-	OP-	OX-	NX-	CX-	DX-	IX-	CM	AP	IH	R-MP	CMP	-PW	-DE	-PL	-GR	-UL	-UG		-SH	
<b>BUILDING SIGNS</b>																										
Wall Sign	--	--	--	--	--	P	P	P	P	P	P	P	--	--	P	--	P	P	P	P	P	P	P	P	P	Sec. 7.3.4.
Projecting Sign	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	P	P	P	P	P	P	P	P	P	Sec. 7.3.5.
Awning, Gallery, Marquee Sign	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	P	P	P	P	P	P	P	P	P	Sec. 7.3.6.
Window Sign	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	P	P	P	P	P	P	P	P	P	Sec. 7.3.7.
<b>GROUND SIGNS</b>																										
Low Profile	--	--	--	--	--	--	P	P	P	P	--	P	--	--	P	--	P	P	P	P	P	--	--	--	Sec. 7.3.8.	
Medium Profile	--	--	--	--	--	--	--	--	P	P	--	P	--	--	P	--	P	P	--	--	--	--	--	--	Sec. 7.3.9.	
High Profile	--	--	--	--	--	--	--	--	P	P	--	P	--	--	P	--	P	P	--	--	--	--	--	--	Sec. 7.3.10.	
Tract Identification Sign	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	P	--	--	--	--	Sec. 7.3.11.	
A-Frame Sign	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	P	--	P	P	P	P	P	P	Sec. 7.3.12.	
<b>ADVERTISING SIGNS</b>																										
Off-Premise Sign	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	--	--	--	--	--	--	--	--	Sec. 7.3.14.	

Key: P = Sign Permitted -- = Sign Not Permitted

### Sec. 7.3.3. Additional Sign Types

Additional sign types may be allowed, requirements for additional sign types are located in Sec. 7.3.13.

### Sec. 7.3.4. Wall Signs



#### A. Description

An on-premise sign attached flat to or mounted away from but parallel to the building wall, typically extending no more than 12 inches from the building wall. A sign permit is required for a wall sign.

#### B. Sign Area Allocation

Two square feet per lineal foot of each building wall facing a public street or a private drive if lot has no frontage on a public street.

#### C. Height

1. No portion of a wall sign may extend above the roof line of a building without a parapet wall.
2. No portion of a wall sign may extend 2 feet above the roof line of a building with a parapet wall, provided no portion of the sign extends above the parapet.
3. No wall sign may extend above the lower eave line of a building with a pitched roof.

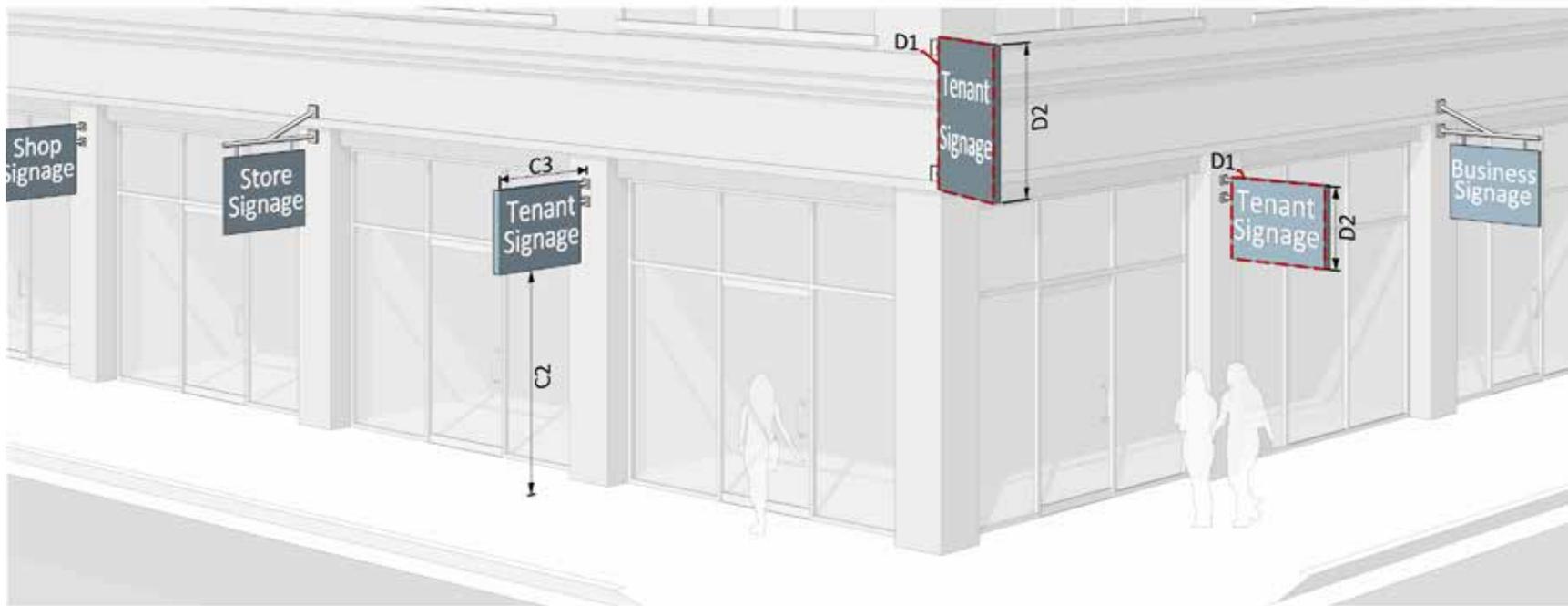
#### D. Frontage Standards

	-DE	-PL	-GR	-UL	-UG	-SH
D1 Size (max)	40 sf					
D2 Height (max)	5'	5'	5'	5'	5'	5'
D3 Projection (max)	6"	12"	6"	6"	6"	6"
D4 Signs per business (max per street frontage)	1	1	1	1	1	1

#### E. Retaining Wall Signage in DX-

A sign may be mounted to a functional retaining wall in the DX- District, typically extending no more than 12 inches from the face of the retaining wall. Wall signage may not extend above the top of the retaining wall. Allowable wall signage allocated to the retaining wall in lieu of the building wall shall be in accordance with *Sec. 7.3.4.B*.

## Sec. 7.3.5. Projecting Signs



### A. Description

An on-premise sign attached directly to a supporting building wall and intersecting the building wall at a right angle. A projecting sign typically extends more than 12 inches from the building wall and may be 2 or 3-dimensional. A sign permit is required for a projecting sign.

### B. Size

A projecting sign may not exceed 40 square feet in area. A projecting sign which is not internally illuminated and is suspended to allow the sign to swing due to wind action is not allowed to exceed 16 square feet in area.

### C. Location

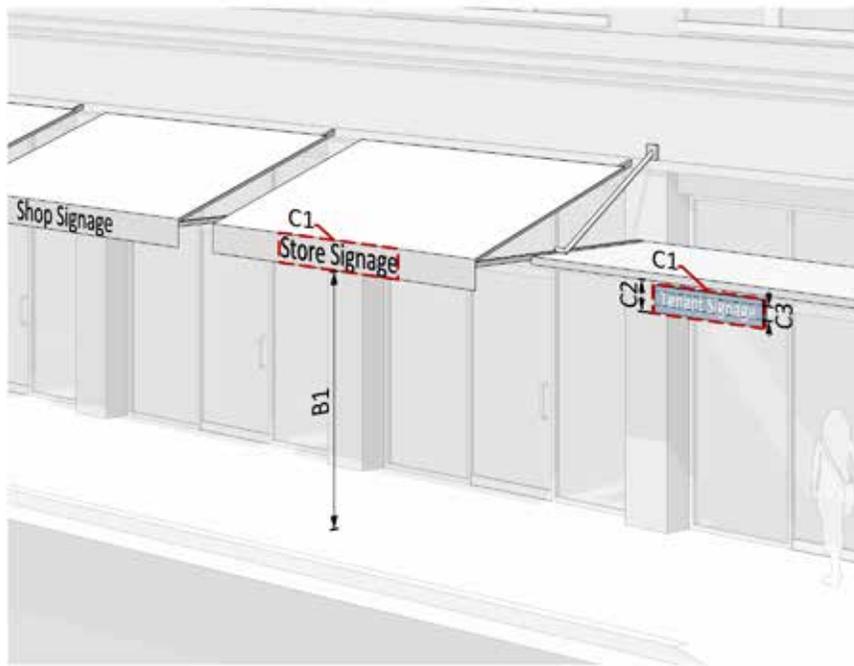
C1	Signs per business (max per street frontage)	1
C2	Clear height (min)	9'
C3	Projection from wall (max)	5'
C4	Distance from curb (min)	18"
C5	ROW Encroachment	Allowed with Council approval

		-DE	-PL	-GR	-UL	-UG	-SH
<b>D. Frontage Standards</b>							
D1	Ground story: Sign area per sign face (max)	25 sf	40 sf				
D2	Ground story: Height (max)	5'	8'	8'	8'	8'	8'
D1	Upper story: Sign area per sign face (max)	25 sf	72 sf				
D2	Upper story: Height (max)	5'	12'	12'	12'	12'	12'

### E. Miscellaneous

- Projecting signs erected at the intersection of building corners when the building corner adjoins the intersection of 2 streets may intersect at a 45 degree angle to the corner of the building, in which case only 1 projecting sign is allowed.
- No projecting sign is allowed to extend above the roof line or the parapet wall.
- Buildings with 2 or more stories may not have a projecting sign located higher than the second story or 24 feet, whichever is less.

### Sec. 7.3.6. Awning, Gallery, Marquee Signs



#### A. Description

An on-premise sign attached flat to (or extending vertically upward or downward) from an awning, gallery or marquee. A sign permit is not required.

#### B. Location

B1	Clear height (min)	8'
B2	ROW Encroachment	Allowed with Council approval

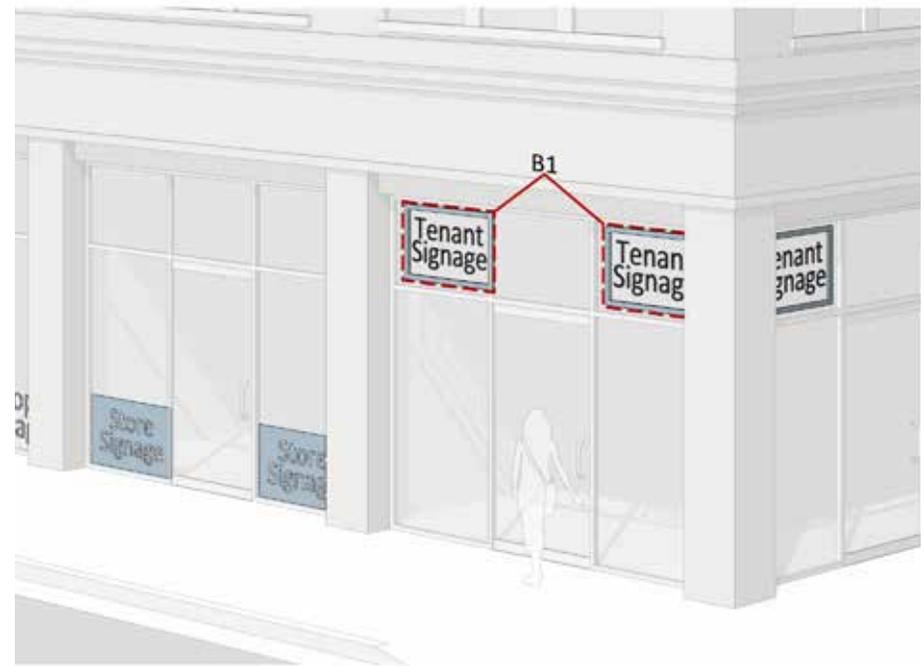
#### C. Size

C1	Area (max)	15 sf
C2	Height above or below awning, gallery or marquee (max)	12"
C3	Height of letters (max)	18"

#### D. Miscellaneous

Signs shall not extend outside the overall length or width of an awning, gallery or marquee or extend above the height of the building wall that the awning, gallery or marquee is attached.

### Sec. 7.3.7. Window Signs



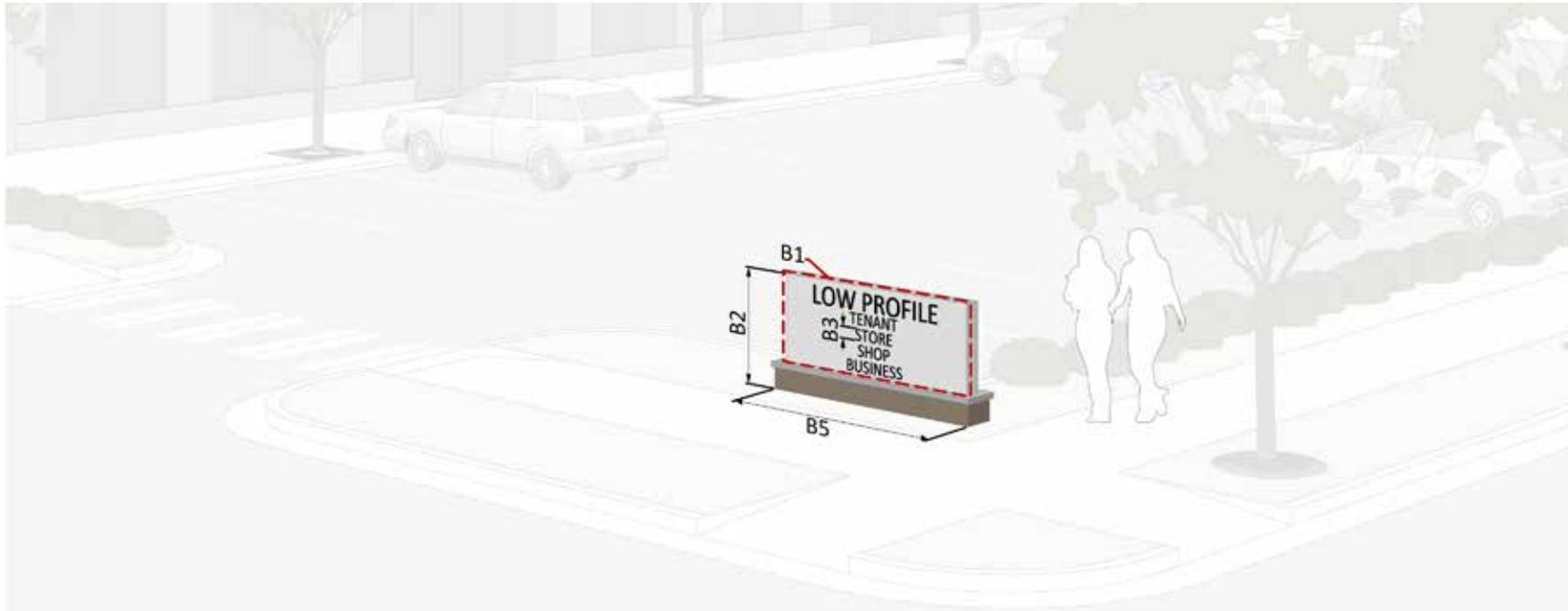
#### A. Description

A window sign is an on-premise sign attached flat but parallel to the inside of a window or is within 12 inches of the inside of the window. A sign permit is not required.

#### B. Size

B1	Area per business (max combination of all windows covered by window signs)	30%
B2	Window signs may only cover 5% of window area between 4 and 7 feet above the adjacent sidewalk	

## Sec. 7.3.8. Low Profile Ground Signs



### A. Description

A freestanding sign no more than 3½ feet in height on a supporting structure, post, mast or pole and not attached, supported or suspended to or from any building or structure. A sign permit is required for a ground sign.

### B. Size

B1	Area (max)	70 sf
B2	Height (max)	3.5'
B3	Size of copy (min)	4"
B4	Lines of copy (max)	5
B5	Length in an OP or OX- district (max)	20'

### C. Location

C1	Signs per site (max per street frontage)	1
C2	Additional signs for double frontage lots	Allowed by Special Use Permit
C3	Street frontage required (min)	n/a
C4	ROW Encroachment	Allowed with Council approval

### D. Miscellaneous

All ground sign braces or uprights shall be self-supporting structures permanently attached to concrete foundations in or upon the ground.

### Sec. 7.3.9. Medium Profile Ground Signs



#### A. Description

A freestanding sign no more than 70 square feet in area erected on a supporting structure, mast, post or pole no more than 15 feet in height; or a freestanding sign no more than 100 square feet in area erected on a supporting structure, mast, post or pole no more than 10 feet in height. A ground sign is not attached, supported or suspended to or from any building or structure. A sign permit is required for a medium profile ground sign.

#### B. Size

B1	Option 1: Area (max)	70 sf
B2	Option 1: Height (max)	15'
B3	Option 2: Area (max)	100 sf
B4	Option 2: Height (max)	10'
B5	Size of copy (min)	4"
B6	Lines of copy (max)	5

#### C. Location

C1	Number of signs per site (max)	1
C2	Additional signs for double frontage lots	Allowed by Special Use Permit
C3	Street frontage required (min)	100'
C4	ROW Encroachment	Allowed with Council approval

#### D. Miscellaneous

All ground sign braces or uprights shall be self-supporting structures permanently attached to concrete foundations in or upon the ground.

### Sec. 7.3.10. High Profile Ground Signs



#### A. Description

A freestanding sign no more than 100 square feet in area erected on a supporting structure, mast, post or pole no more than 15 feet in height not attached, supported or suspended to or from any building or structure. A sign permit is required for a high profile ground sign.

#### B. Size

B1	Area (max)	100 sf
B2	Height (max)	15'
B3	Size of copy (min)	4"
B4	Lines of copy (max)	5

#### C. Location

C1	Number of signs per site (max)	1
C2	Additional signs for double frontage lots	Allowed by Special Use Permit
C3	Street frontage required (min)	200'
C4	ROW Encroachment	Allowed with Council approval

#### D. Miscellaneous

All ground sign braces or uprights shall be self-supporting structures permanently attached to concrete foundations in or upon the ground.

### Sec. 7.3.11. Tract Identification Signs



#### A. Description

A freestanding ground sign identifying entry to a residential, commercial or mixed development or a nonresidential establishment in a residential district. A sign permit is required for a tract identification sign.

#### B. Size

B1	Copy area (max)	16 sf
B2	Copy height (max)	3.5'
B3	Sign area (max)	160 sf
B4	Sign height (max)	6'

#### C. Location

C1	Number of signs per street frontage (max)	1
C2	Site with more than 400 feet in street frontage	1 additional sign per frontage
C3	ROW Encroachment	Allowed with Council approval

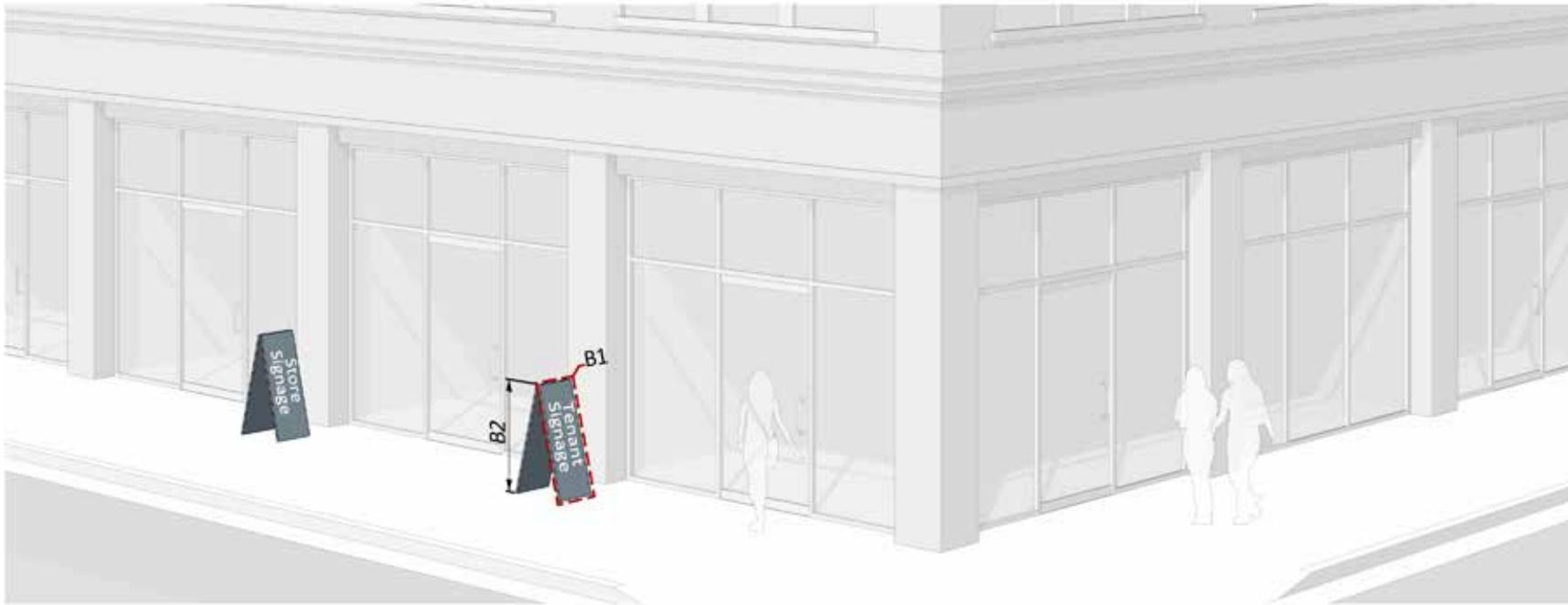
#### D. Additional Rules in Mixed Use, IH, CMP District

D1	Size of development (min)	2.5 acres
D2	Lot width (min)	60'
D3	Number of establishments (min)	3

#### E. Miscellaneous

Identifying signs may be placed on a subdivision wall or fence provided that no part of the wall or fence exceeds 6 feet in height or may be placed on a retaining wall greater than 6 feet in height provided that no part of the sign exceeds a height of 5 feet.

### Sec. 7.3.12. A-Frame Signs



#### A. Description

A small unlit freestanding on-site portable ground sign that is displayed during business hours and removed when the business is closed. A sign permit is not required.

#### B. Size

B1	Area (max)	6 sf
B2	Height (max)	5'

#### C. Location

C1	Distance from main pedestrian entrance (max)	5'
C2	Clear pedestrian space	5'
C3	ROW Encroachment	Allowed with Council approval
C4	Number size per establishment (max)	1

#### D. Miscellaneous

1. Sidewalk signs must not interfere with pedestrian travel or encroach upon the required accessible path.
2. Sidewalk signs may only be displayed during business hours and must be removed when the business is closed.

### Sec. 7.3.13. Special Sign Types

#### A. Announcement Signs

An announcement sign is a small on-premise ground sign permitted as use regulation for specific nonresidential uses in a Residential District as set forth in *Chapter 6. Use Regulations*

#### B. Crown Signs

An on-premise wall sign located on buildings a least 200 feet in height.

1. In addition to a permitted wall sign, buildings greater than 200 feet in height may contain a crown sign.
2. The amount of additional wall signage shall not exceed 4.70 square feet of signage per building side for each foot of building height over 200 feet tall up to a maximum of 750 square feet.
3. Additional wall signage shall not be transferred from 1 building side to another.
4. No crown sign shall exceed 750 square feet per sign.
5. Only 1 crown sign shall be located on any 1 side of a building.
6. The sign must be located at the top crown of the building and it shall not extend below the top of the upper floor of the building.
7. The same copy must appear on all additional crown signs.
8. All sign illumination shall be internal.
9. Changeable copy is prohibited.
10. A crown sign shall contain no more than 1 line of copy, excluding symbols.

#### C. Changeable Copy Signs

A sign on which copy is changed manually and copy is shown on the same sign face such as reader boards with changeable letters or changeable pictorial panels but not limited to the above. Poster panels and painted boards are not changeable copy signs.

1. For any permitted wall, projecting, ground or tract identification sign up to 50% of the sign area may be changeable copy (automatic or manual).
2. For tract identification the total area of the changeable copy cannot exceed 8 square feet per sign. Only 1 changeable copy sign may be erected and it must be physically part of that tract identification sign.

3. No changeable copy sign may contain more than 3 horizontal pieces of information.
4. Except changeable copy time and temperature signs, no changeable copy sign may change more than 4 times in any 24-hour period.

#### D. Directional Signs

A sign that orients pedestrian and vehicular traffic to different areas within a development of over 100 acres.

1. Directional signs are only allowed in developments that contain at least 100 acres.
2. No sign permit shall be issued for a directional sign until a common signage plan has been approved as set forth in *Sec. 7.3.16.H*.
3. All directional signs shall be under the maintenance responsibility of a single association or other legal entity.
4. If any common signage plan amendment is approved, all existing signs that do not comply with the new sign criteria shall be removed within 30 days of approval of such amendment.
5. There shall be no more than 1 directional sign for every 1,000 feet of frontage along any thoroughfare, commercial or collector street.
6. No directional sign shall exceed 7 feet in height and 35 square feet of sign area.
7. The sign may include the name of the overall development and the type of land use subareas that is identified in the approved Master Plan.
8. Directional signs may be located on the same lot as a ground sign.

#### E. Directory Signs

A on-premise sign that lists the name of activities, businesses, firms or tenants of a unified project or site.

1. The site shall contain no more than 1 directory sign.
2. The maximum sign area shall not exceed 3 inches by 15 inches for each identified activity, business, firm or tenant on the site.
3. The outdoor directory sign may either be a changeable copy sign or fixed professional nameplates; provided that the standards of each are met.

4. The sign may take the form of any sign permitted in the district provided that the sign complies with the applicable sign requirements. If the directory sign is a ground sign, no other ground sign is allowed unless the directory sign is positioned so that is not visible from any right-of-way and contains no other message, announcement or decoration.

## F. Landmark Signs

A sign that exhibits unique characteristics that enhance the streetscape or identity of a neighborhood and as such contributes to the historical or cultural character of the area or the community at large.

1. The sign is an on-premise sign that meets at least 1 of the following criteria:
  - a. It was expressly designed for the business, institution or other establishment at that location;
  - b. It bears a national emblem, logo or other graphic that is no longer used by the company; or
  - c. It is a remnant of an advertising program that is no longer used by the parent company.
2. The sign complies with *Sec. 7.3.16.B.* and if any portion is permitted to remain on or over a public right-of-way, a City or State approved encroachment agreement is executed.
3. The sign complies with the lighting standards of *Sec. 7.3.16.G* and the prohibited sign requirements of *Sec. 7.3.15.*
4. The sign exists or will within 6 months of its designation as a landmark sign be restored and continuously maintained, in its full original condition except for minor changes required for structural enhancements, changes required to comply with paragraphs *Sec. 7.3.13.F.1.* through *Sec. 7.3.13.F.3.* above and Federal or State regulations. Where original materials are unavailable, substitute materials, which are as near as possible substitutes for the original material may be used.
5. The sign was erected prior to January 1, 1973 and has existed continuously in place on the site.
6. The application requesting landmark designation was completed and submitted within 6 months following an extension of areas in which this UDO is applicable.
7. The sign is approved by the City Council as a landmark sign.

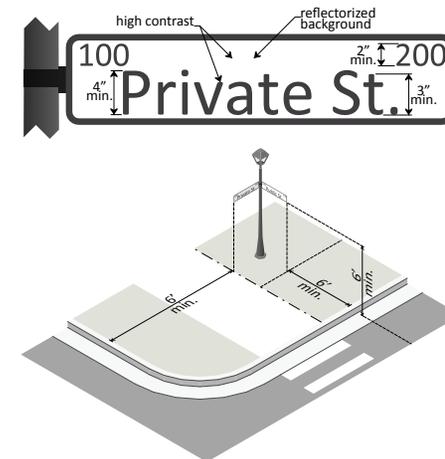
8. Other signs that are of the same sign type as a landmark sign are permitted on the site so long as: the maximum area, including the area of landmark signs, of such type of signage, is not exceeded, all other applicable requirements for that type of sign are met and the maximum signage allowed for the site, as determined by *Sec. 7.3.16.B.*, is not exceeded.

## G. Miscellaneous (Omnibus) Signs

Each site that is not allowed a wall sign or an on-premise sign or off-premises ground sign is allowed to contain a maximum amount of signage of 60 square feet, provided that, no sign is more than 15 square feet in area and 3½ feet in height.

## H. Private Street Signs

A sign placed on private property that identifies name of a private street.



### 1. Sign Legend

#### a. Name and Block

- i. The approved street name and block number must be shown on each sign face.
- ii. The street name must be shown in a clear, readable style of print. Cursive letters cannot be used.

- iii. Block numbers must be shown in Arabic numerals.
- iv. At the point of intersection with public streets, private street signs shall immediately above the name and block contain the word "private."

**b. Abbreviations**

The street name shall not be abbreviated but standard abbreviations may be used for the prefix (north, south, east and west) and for the suffix portion of the legend.

**c. Minimum Letter Size**

Street names shall not be less than 4-inch uppercase, 3-inch lowercase. Block number or building references shall not be less than 2 inches.

**2. Visibility and Reflectivity**

- a. Legend and background color selection shall effect clear contrast and visibility for both day and night identification so that the name is easily identifiable for up to 175 feet from the sign.
- b. All legends and backgrounds shall be reflectorized to ensure visibility at night.

**3. Location, Number and Placement**

**a. Location**

- i. At intersecting private streets, the sign shall be placed as near as possible to the intersection of a line parallel to and 6 feet from each private street.
- ii. The private street name marker assembly shall not be placed on the public right-of-way and shall not be closer than 6 feet to the edge of pavement of the private street.

**b. Number**

A sign face for intersecting private street or private street and public streets, shall be required so that the respective street name and block number is displayed to the appropriate direction of travel.

**c. Vertical Position**

The bottom of the sign shall be a minimum of 6 feet above the elevation of the adjacent street.

**I. Product and Information Signs**

- 1. A product sign is a sign attached to outdoor vending machines, stands, gasoline pumps and display racks that direct attention to dispensed products.
- 2. An information sign is an on-premise sign containing no other commercial message, copy, announcement or decoration other than instruction or direction to the public. Such signs include but are not limited to the following: identifying restrooms, public telephones, automated teller machines, for lease, for sale, walkways, entrance and exit drives, freight entrances and traffic direction.
- 3. A product sign or information sign may not exceed 6 square feet in area, except in the case of an information sign for a multi-establishment campus.
- 4. Individual information signs for a multi-establishment campus may be a maximum of 14 square feet in area with a maximum height of 3½ feet and a maximum width of 4 feet. One primary information sign may be located at each major entrance; provided that, no such sign shall be closer than 100 feet to the public right-of-way, and not exceed a maximum of 35 square feet in area, a maximum height of 7 feet and a maximum width of 5 feet.
- 5. The total sign area for all product and information signs located on any site cannot exceed 32 square feet; provided that the total allowable sign area for information signs which are part of a multi-establishment campus may be increased in accordance with the following:
  - a. 32 square feet per major entrance drive for any multi-establishment campus with three or more major entrances from a commercial street or a thoroughfare; and
  - b. 10 square feet for each acre in excess of 10 acres of the multi-establishment campus.
- 6. No commercial message, copy, announcement or decoration can be located on the information sign other than instruction or direction to the public.

7. A product sign must be attached directly to either the dispensary structure or the product and cannot be located in any Residential District.

#### J. Temporary Signs

After the issuance of a temporary sign permit the following temporary signs may be erected:

1. Unlit on-premise portable signs, 3-dimensional banners, moored blimps, gas balloons and windblown signs such as pennants, spinners, flags and streamers for special events for a total period not to exceed 30 days.
2. Construction signs are permitted on a construction site that meet all of the following standards:
  - a. The sign area shall not exceed 15 square feet in sign area in CM, AP or a Residential District and shall not exceed 32 square feet in area in all other districts.
  - b. No construction sign shall be erected prior to issuance of a grading or building permit and the sign shall be removed within 15 days after issuance of a certificate of compliance.
3. Temporary signs shall not be permitted within the right-of-way.

#### K. Unit Numbering Identification Sign

1. All unit numbers shall be uniformly located on the side of the building facing the street within 18 inches of the building entrance or if not possible for architectural or building arrangement reasons prominently displayed on the building wall, easily visible from a public street.
2. However, unit number signs for detached and attached houses and manufactured homes only may, in lieu of being located on the building wall, be located on the mail box or similar sized surfaces attached to mail boxes.
3. Units that do not abut and gain access on a public street must locate identification signs containing the name of the court, street or way and the unit numbers on each main entrance to the building.
4. All unit number signs shall be a minimum of 3 inches in size.
5. Any unit number identification over 10 inches in height shall comply with all applicable sign regulations of this UDO.

#### L. Windblown Signs

A banner, flag, pennant, spinner or streamer.

1. No site shall contain more than 3 windblown signs. Each windblown device erected to a tether, pole, mast, building or any structure shall be deemed to be a separate distinct windblown sign.
2. The total sign area of all windblown signs on a site located in a mixed or special district shall not exceed 40% of the maximum allowable signage as set forth in *Sec. 7.3.16.B*.
3. The total sign area of all windblown signs on a site located in a residential district shall not exceed 35 square feet.
4. The maximum height of a windblown sign shall not exceed 20 feet or the tallest principal building located on the site, whichever is greater.
5. The windblown sign limitations do not apply to temporary windblown signs erected pursuant to *Sec. 7.3.13.J*.

## Sec. 7.3.14. Off-Premise Signs

### A. Purpose

1. For the purpose of regulating excess signage, encouraging the positive economic development of the City, promoting the safety of the traveling public, protecting existing property values in both residential and nonresidential areas, preventing the overcrowding of land, promoting a positive community appearance as part of a concerted City-wide effort to protect and enhance the aesthetics of the Capital City for the enjoyment of all citizens of North Carolina, outdoor advertising signs is controlled and regulated.
2. The regulations are designed to prevent their overconcentration, improper placement and excessive height, bulk, number and area. It is recognized that, unlike on-premise identification signs which are actually a part of a business, outdoor advertising is a separate and distinct use of the public thoroughfare. With a view to this distinction, outdoor advertising signs are regulated differently from on-premise signs. It is intended that outdoor advertising signs be located away from residential areas and that such signs be regulated to protect the character of the area wherein outdoor advertising signs are located, and to conserve property values in these areas.

### B. General Regulations

1. All outdoor advertising signs shall be consistent with all definitions and shall comply with all standards and regulations of this UDO.
2. Except for ordinary maintenance and repair, poster panel replacements, copy, changes or repair not involving structural, material or electrical changes, no outdoor advertising signs or part of an outdoor advertising signs, shall be erected, altered, constructed, changed, converted, re-erected, additionally illuminated, reduced in size, enlarged or moved unless the entire outdoor advertising sign and structure are brought into conformity with this UDO.

### C. Area of Outdoor Advertising Signs

1. No outdoor advertising sign facing streets with 4 or more traffic lanes may exceed 150 square feet.

2. Outdoor advertising signs facing streets with fewer than 4 traffic lanes may not exceed 75 square feet.
3. The sign area is measured by finding the area of the minimum imaginary rectangle or square of vertical and horizontal lines which fully encloses all extremities of the sign, excluding supports, the base or apron unless the copy message, announcement or decoration appears on the base or apron. The allowable sign area of signs with equal size and shape for both double-faced (back-to-back) and V-type signs is measured by computing the area of only one side of the sign. Both sides of a double-faced or V-type sign shall be of equal size.
4. The sign area of signs with 3 or more sides (multiple sided signs) containing a copy, message, decoration or announcement visible from a street, highway or expressway is measured as the sum of the area of any 2 adjacent sides.

### D. Height

No outdoor advertising sign, including base or apron, supports, supporting structures and trim, may exceed 30 feet in height.

### E. Setback Requirements

District setback requirements are not applicable to outdoor advertising signs.

### F. Construction Standards

#### 1. Compliance with Building Codes

All signs shall comply with the appropriate detailed provisions of the North Carolina and City Building Codes, the National Electric Code and other provisions of the Code of the City of Raleigh.

#### 2. Clearance from High-Voltage Power Lines

Outdoor advertising signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code; provided that, no outdoor advertising sign shall be erected closer than 10 feet in any direction from any conductor or public utility guy wire.

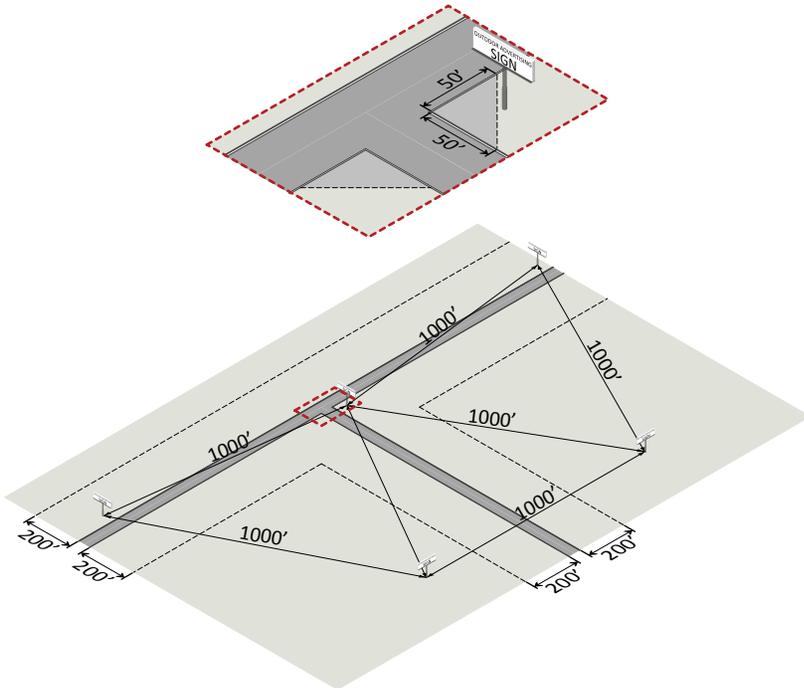
## G. Location and Spacing

### 1. Corner Lots

No part of an outdoor advertising sign may be located within a triangular area formed by the street right-of-way lines and a line connecting them at points 50 feet from the right-of-way intersection.

### 2. Spacing of Signs

- a. No part of any outdoor advertising sign shall be located less than 1,000 feet from any part of another outdoor advertising sign when located within either of two 200-foot corridors along each side of a roadway. The 2 corridors shall be delineated by connecting perpendicular measurements from all points along the road rights-of-way. No part of any permitted outdoor advertising sign which is located outside of the 200-foot corridor areas may be located within a 1,000-foot radius of any other outdoor advertising sign.
- b. No part of any outdoor advertising sign is permitted within 400 feet of a district that allows dwellings.



## Sec. 7.3.15. Prohibited Signs

The following signs are prohibited within all districts.

- A. Any sign which the Public Works Director determines obstructs the view of bicyclists or motorists using any street, private driveway, approach to any street intersection or which interferes with the effectiveness of or obscures any traffic sign, device or signal.
- B. Illuminated, highly reflective signs or spotlights which the Public Works Director determines hampers the vision of motorists or bicyclists.
- C. Signs, lights, rotating disks, words and other devices which resemble traffic signals, traffic signs or emergency vehicle lights.
- D. Signs, lights, rotating disks, words and other devices not erected by public authority which may be erroneously construed as governmental signs or emergency warning signs.
- E. Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairways, ladder or opening intended as a means of ingress or egress or providing light or air.
- F. Any sign placed on any curb, sidewalk, post pole, hydrant, bridge, tree or other surface located on, over or across any public street, right-of-way, property or thoroughfare, unless authorized by the City Council.
- G. Flashing signs, travelling lights or signs animated by lights or changing degrees of intensity, except signs in public rights-of-way.
- H. Signs that mechanically move, except signs on public rights-of-way.
- I. Roof signs.
- J. The tacking, posting or otherwise affixing of signs of a miscellaneous character visible from a public right-of-way located on the outside walls of buildings, barns, sheds, trees, poles, fences or other structures provided unit numbers, mailbox and paper tube identification signs that do not exceed 1 square foot in area and signs which warn the public against danger shall be allowed.
- K. Any message, copy or announcement, which uses a series of 2 or more signs placed in a line parallel to a street, highway or expressway carrying a single message or copy.
- L. Any sign which pertains to a business, profession, commodity or service which is vacant, unoccupied or discontinued for a period of 1 year or more; any part of a sign which is unused for a period of 1 year or more; or any sign which pertains

to an event or purpose which no longer applies shall be deemed abandoned. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner or tenant of the premise.

M. Any sign unlawfully erected or maintained.

## Sec. 7.3.16. General Sign Regulations

### A. Area Computation of Copy and Signs

#### 1. Individual Letters

- The area of copy or the area of a sign which consists of individual letters that are erected directly onto a surface exclusive of any sign face, is measured by finding the area of the minimum imaginary rectangles or squares of vertical and horizontal lines, which fully encloses all sign words, copy or message.
- All or a portion of at least 1 side of each rectangle and square must be coterminous with the side of another rectangle or square. At least 75% of the sign area must be enclosed by 1 rectangle or square.
- Rectangles and squares cannot be configured to indent within a letter.

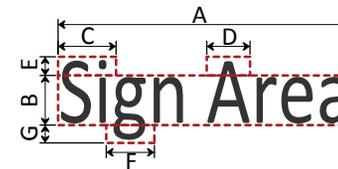
#### 2. Multi-Sided Signs

The sign area of a sign with three or more sides (multi-sided signs) containing a copy, message, decoration or announcement visible from a street, highway or expressway is equal to the sum of the areas of any 2 adjacent sides.

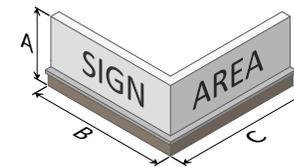
#### 3. All Other Signs

- The sign area is measured by finding the area of the minimum imaginary rectangles or squares of vertical and horizontal lines which fully enclose all extremities of the sign, exclusive of its supports.
- All or a portion of at least 1 side of each rectangle or square must be coterminous with the side of another rectangle or square.
- At least 75% of the sign area must be enclosed by 1 rectangle or square.
- Rectangles and squares cannot be configured to indent within a letter.

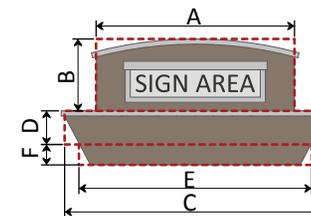
Individual Letters:  
 Area of copy =  $(A \times B) + (C \times E) + (D \times E) + (F \times G)$   
 $(A \times B) \geq 75\%$  of sign area



Multi-Sided Signs:  
 Area of sign =  $(A \times B) + (A \times C)$



All Other Signs:  
 Area of sign =  $(A \times B) + (D \times C) + (F \times E)$   
 $(A \times B) \geq 75\%$  of sign area



## B. Maximum Signage

1. The total maximum signage allowed for any single establishment located in a Mixed Use, IH or CMP district, not including an area with an adopted Streetscape Plan or properties with frontage on Fayetteville Street, is 2 square feet per linear foot of side of the building facing along any street up to a maximum of 300 square feet.
2. If a ground sign or tract identification sign is located on the site, the maximum sign area per establishment is limited 200 square feet.
3. No premise, including those in a Residential District, is prevented from having at least 32 square feet of on-premise signage, except for properties with frontage on Fayetteville Street as described below. Allowable signage may be allocated among the permitted signs in the district.
4. The maximum allowable signage limitation does not apply to Landmark signs, product and information signs, unit numbering identification signs under 10 inches and temporary signs.
5. No sign or combination of signs shall exceed a total of 3 square feet per linear foot of building frontage for properties with frontage on Fayetteville Street, applies south of Morgan Street and north of South Street.

## C. Adopted Streetscape Plans

Within areas where an adopted Streetscape Plan applies, conformance to the adopted Streetscape Plan is required. In the event of a conflict with the general sign requirements of this Article and an adopted Streetscape Plan, the Streetscape Plan standards shall apply.

## D. Noncommercial Copy Permitted

Any sign authorized in this UDO is allowed to contain noncommercial message in lieu of any commercial message.

## E. Construction Standards

### 1. Compliance with Building Code

All signs shall comply with the appropriate provisions of the North Carolina State and City Building Codes, the National Electric Code and other provisions of the City Code.

### 2. Clearance from High Voltage Power Lines

Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except government traffic signs, shall be installed closer than 10 feet in any direction from any conductor or public utility guy wire.

## F. Sight Triangle

1. Signs shall not obstruct the views of motorists using any street, driveway, parking aisles or the approach to any street intersection.
2. All signs must comply with the sight triangle requirements of the Raleigh Street Design Manual.

## G. Illumination of Signs

Any conforming sign, unless otherwise specifically regulated, may be illuminated provided the following standards are met:

1. Any light source from any illuminated sign or flood light used to illuminate a sign must not be oriented so as to direct glare or excessive illumination onto streets or sidewalks in a manner that may distract or interfere with the vision of drivers, cyclists or pedestrians, as determined by the Public Works Director.
2. No illuminated sign shall cast light to exceed 0.5 footcandles measured at the property line of any Residential District and 2.0 footcandles measured at the right-of-way line of a street.
3. Internal illumination cannot exceed 10 footcandles measured at a distance of 10 feet from the sign.
4. All electrically illuminated signs shall have a disconnecting switch located in accordance with the provisions of the National Electric Code.
5. Applications for both a sign permit and an electrical permit shall be submitted and approved by the City prior to the installation.
6. In any -AOD, all illuminated signs shall be shielded in such a manner that no direct glare can be seen from above.

## H. Common Signage Plan

1. To achieve congruity, unity of development and to avoid conflicts within any site with more than 1 principal building, no sign permit shall be issued to any development containing more than 1 establishment until a common signage plan has been approved in accordance with *Sec. 10.2.12*.
2. No permit will be issued in violation of the common signage plan. Such criteria shall be as follows:
  - a. Specified allowed type script that shall be observed.
  - b. Maximum and minimum letter height that shall be observed.
  - c. Specified allowed sign types, all other signs shall be prohibited.
  - d. Sign placement by specifying sign panel location or elevations.
  - e. Specified maximum of 3 colors to be applied to the sign and its background that shall be observed. Colors shall include black and white.
  - f. In addition to the 3 color limit, 1 additional color of either black or white or a color that matches the building material color of the wall on which it is attached or the dominant exterior building material such as, but not limited to, brick or marble may be allowed.
  - g. Federal and State registered trademarks or service marks may employ additional colors; provided, they do not exceed the following:
    - i. 12¼ square feet for all establishments less than 10,000 square feet;
    - ii. 18 square feet for establishments greater than 10,000 to 30,000 square feet;
    - iii. 25 square feet for establishments greater than 30,000 to 100,000 square feet; and
    - iv. 36 square feet for establishments greater than 100,000 square feet.
  - h. The sign includes its casings, supports and backings. Only those signs which are erected or altered after the common sign plan is established shall be affected by the common sign plan

## Sec. 7.3.17. Nonconforming Signs

- A. Signs which are made nonconforming by an amendment to this UDO or an amendment to the Official Zoning Map or extension of areas in which this UDO is applicable shall be discontinued and removed or made conforming within 5½ years after the date of the amendment or extension, unless explicitly prohibited by state statute.
- B. Nothing in this UDO shall prohibit the ordinary maintenance repair of a nonconforming sign or replacement of a broken part of a nonconforming sign. Whenever any nonconforming sign or part of a nonconforming sign is altered, replaced, converted or changed, the entire sign must immediately comply with the provisions of this UDO.
- C. Nonconforming signs that are destroyed or damaged by 50% or more of their value shall not be rebuilt or repaired except in conformance with this UDO.
- D. Nothing in this UDO shall prevent a City Council-designated landmark sign from indefinitely remaining on-premise so long as the landmark sign complies with all the standards of *Sec. 7.3.15*.

## Article 7.4. Site Lighting

### Sec. 7.4.1. Applicability

#### A. General

1. This Article does not apply to lighting installed in the public right-of-way or along any greenway.
2. The installation of site lighting, replacement of site lighting and changes to existing light fixture wattage, type of fixture, mounting or fixture location shall be made in strict compliance with this UDO.
3. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures.

#### B. Change in Use

A change in use does not trigger application of this Article except when there is a specific use standard requiring site lighting for a new use.

#### C. Permit Required

A permit is required for work involving site lighting. Documentation must be submitted that states the proposed site lighting complies with the provisions of this UDO. At a minimum, the documentation submitted must contain the following:

1. A point-by-point footcandle array in a printout format indicating the location and aiming of illuminating devices. The printout must indicate compliance with required footcandle limitations.
2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices, including but not limited to manufacturers or electric utility catalog specification sheets and photometric report indicating fixture classification.
3. The Planning and Development Officer may waive any or all of the above permit requirements, provided the applicant can otherwise demonstrate compliance with this UDO.

### Sec. 7.4.2. Light Level Measuring

- A. Light levels are specified, calculated and measured in footcandles. All footcandles values are maintained footcandles.

- B. Measurements are to be made at ground level, with the light-registering portion of the meter held parallel to the ground pointing up.

### Sec. 7.4.3. Prohibited Sources

The following light fixtures and sources cannot be used:

- A. Cobra-head-type fixtures having dished or drop lenses or refractors which contain sources that are not incandescent;
- B. Temporary searchlights and other high-intensity narrow-beam fixtures; and
- C. Light sources that lack color correction or do not allow for uniform site lighting.

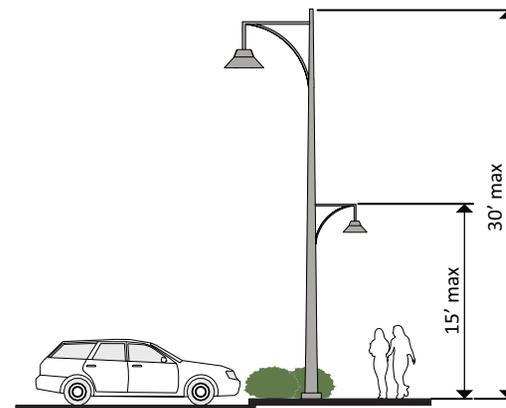
### Sec. 7.4.4. Design and Installation Requirements

All light fixtures shall meet the following requirements:

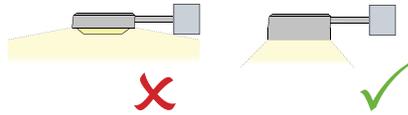
- A. The maximum light level of any light fixture cannot exceed 0.5 footcandles measured at the property line of any Residential District and 2.0 footcandles measured at the right-of-way line of a street.
- B. Lighting must not be oriented so as to direct glare or excessive illumination onto adjacent properties, streets or sidewalks.
- C. Service connections for all freestanding lighting fixtures must be installed underground.

### Sec. 7.4.5. Parking and Pedestrian Areas

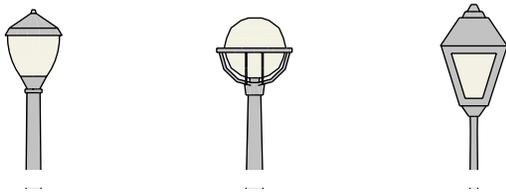
- A. Light fixtures within parking and vehicular display areas may be no higher than 30 feet.
- B. Light fixtures within pedestrian areas may be no higher than 15 feet.



- C. Light fixtures located within 50 feet of the property line of a Residential District may be no higher than 15 feet.
- D. Light fixtures within 25 feet of a street right-of-way must be forward throw fixtures.
- E. Light fixtures in parking and vehicular display areas must be full cutoff. In all other areas, light fixtures with more than 2,000 lumens must be full cutoff unless they meet the following:



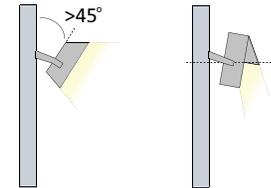
1. Non-cutoff fixtures can be used when the maximum initial lumens generated by each fixture does not exceed 9,500 lumens;



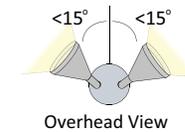
2. If the unshielded fixture has all metal halide, fluorescent, induction, white high pressure sodium and color-corrected high pressure sodium lamps, the outer lamp envelope must be coated with an internal white frosting to diffuse light;
  3. All metal halide fixtures equipped with a medium base socket must use either an internal refractive lens or a wide-body refractive globe; or
  4. All non-cutoff fixture open-bottom lights must equipped with full cutoff fixture shields.
- F. To the extent possible, as determined by the Planning and Development Officer, internal light sources within structured parking shall not be visible from the adjacent public right-of-way. Rooftop lighting for parking structures shall be mounted a minimum of 15 feet in from the edge of the structure.

### Sec. 7.4.6. Flood Lights and Flood Lamps

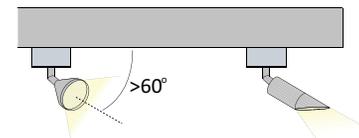
- A. Flood light fixtures must either be aimed down at least 45 degrees from vertical or the front of the fixture shielded so that no portion of the light bulb extends below the bottom edge of the shield.



- B. Any flood light fixture located within 50 feet of a street right-of-way must be mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees.



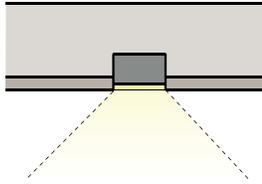
- C. All flood lamps emitting 1,000 or more lumens must be aimed at least 60 degrees down from horizontal or shielded so that the main beam is not visible from adjacent properties or the street right-of-way.



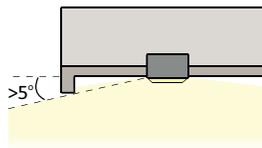
### Sec. 7.4.7. Vehicular Canopies

Lighting under vehicular canopies must be less than 24 maintained footcandles and be designed to prevent glare off-site. Acceptable lighting designs include the following:

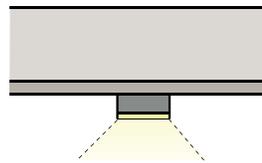
- A. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface of the canopy;



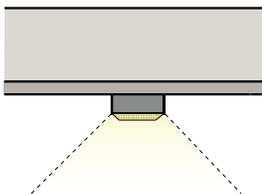
- B. Light fixture incorporating shields or is shielded by the edge of the canopy itself, so that light is restrained to 5 degrees or more below the horizontal plane;



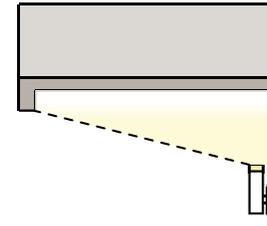
- C. Surface mounted fixture incorporating a flat glass that provides a cutoff design or shielded light distribution;



- D. Surface mounted fixture measuring no more than 2 feet by 2 feet, with a lens cover that contains at least 2% white fill diffusion material; or



- E. Indirect lighting where light is beamed upward and then reflected down from the underside of the canopy, provided the fixture is shielded so that direct illumination is focused exclusively on the underside of the canopy.



### Sec. 7.4.8. Outdoor Recreation Fields and Performance Areas

- A. The mounting height of lighting fixtures cannot exceed 80 feet from finished grade unless approved as a special use permit in accordance with *Sec. 10.2.9*.
- B. All fixtures must be equipped with a glare control package, including louvers, shields or similar devices. The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.
- C. No illumination, when measured at the property line, shall exceed 0.4 maintained footcandle of lighting.
- D. Lights within 100 feet of a Residential District cannot be illuminated after 10 PM Sunday through Thursday and 11 PM Friday and Saturday.
- E. In all other districts, the hours of operation for the lighting system must not exceed 1 hour after the end of the game or event.

### Sec. 7.4.9. Signs

Lighting fixtures illuminating signs must meet the standards of *Sec. 7.3.16.G*.

### Sec. 7.4.10. Building and Security Lighting

- A. Lighting fixtures shall be selected, located, aimed and shielded so that direct illumination is focused exclusively on the building facade, plantings and other intended site features and away from adjoining properties and the street right-of-way.
- B. All wall pack fixtures must be full cutoff fixtures.



- C. Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture is located, aimed or shielded to minimize light spill into the night sky.

## Article 7.5. Outdoor Display and Storage

### Sec. 7.5.1. Applicability

- A. The requirements of this Article apply to any site where merchandise, material or equipment is stored outside of a completely enclosed building.
- B. Where merchandise, material or equipment is stored outside of a completely enclosed building in an AP District and the storage area lies more than 100 feet from any street right-of-way or property line, the provisions of this Article do not apply.
- C. Where allowed, the outdoor sale, lease or rental of motor vehicles and heavy equipment as part of a properly permitted use are not subject to the provisions of this Article, but must be screened along the street edge by a Type C3 street protective yard as set forth in Sec. 7.2.4.B.

### Sec. 7.5.2. Outdoor Display

#### A. Defined

1. Outdoor display is the outdoor display of products actively available for sale. The outdoor placement of propane gas storage racks, ice storage bins, soft drink or similar vending machines is considered outdoor display.
2. Outdoor display does not include merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers (see outdoor storage).

#### B. Standards

Outdoor display is permitted with any nonresidential use in a RX-, OP-, OX-, NX-, CX-, DX- and CMP district following approval of a site plan illustrating the extent of the permitted area for outdoor display. The area for outdoor display must meet the standards below.

1. Outdoor display must be removed and placed inside a fully-enclosed building at the end of each business day, except propane gas storage racks, ice storage bins, soft drink or similar vending machines may remain outside overnight.
2. Outdoor display is permitted adjacent to the primary facade with the principal customer entrance, but cannot extend more than 8 feet from the facade and occupy no more than 30% of the horizontal length of the facade.

3. Outdoor display may not impair the ability of pedestrians to use the sidewalk or parking areas.

### Sec. 7.5.3. Outdoor Storage

#### A. Limited Outdoor Storage

##### 1. Defined

Limited outdoor storage includes, but is not limited to:

- a. Overnight outdoor storage of vehicles awaiting repair;
- b. Outdoor storage of merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers;
- c. Outdoor sales area for building supplies, garden supplies or plants;
- d. Outdoor storage of fleet vehicles; and
- e. Outdoor storage of vehicles, boats, recreational vehicles or other similar vehicles at a storage facility.

##### 2. Standards

Limited outdoor storage is permitted in the OP-, OX-, NX-, CX-, DX-, IX-, AP, IH and CMP districts following approval of a site plan illustrating the extent of the permitted area for limited outdoor storage and provided it meets the standards below.

- a. Limited outdoor storage may not be more than 12 feet in height and must be fully screened from view from the public right-of-way, public parking areas and abutting properties by an evergreen living fence that covers a least two-thirds of the surface area of the fence at the time of maturity or by a Type C1 or C2 street protective yard as set forth in Sec. 7.2.4.B.
- b. Limited outdoor storage cannot be located in an A or B neighborhood transition zone.
- c. Vehicles awaiting repair may be stored up to 14 days within the screened storage area.

## B. General Outdoor Storage

### 1. Defined

General outdoor storage includes, but is not limited to, the outdoor storage of contractors equipment, lumber, pipe, steel, salvage or recycled materials and other similar merchandise, material or equipment.

### 2. Standards

General outdoor storage is permitted in the -IH District following review of a site plan illustrating the extent of the permitted area for general outdoor storage and provided it meets the standards below.

- a. All general outdoor storage must be located at least 15 feet from the public right-of-way and must be screened by a Type C1 street protective yard as set forth in *Sec. 7.2.4.B*.
- b. General outdoor storage may be located in the side or rear setback and must be screened by a Type B1 or B2 transitional protective yard as set forth in *Sec. 7.2.4.A*. when abutting a Residential, Mixed Use or Special District.
- c. General outdoor storage cannot be located in an A or B neighborhood transition zone.

*PAGE INTENTIONALLY LEFT BLANK*

# CHAPTER 8. SUBDIVISION & SITE PLAN STANDARDS

<b>Article 8.1. General Provisions</b>	<b>8 – 3</b>	<b>Article 8.4. New Streets</b>	<b>8 – 14</b>
Sec. 8.1.1. Applicability .....	8 – 3	Sec. 8.4.1. General Provisions .....	8 – 14
Sec. 8.1.2. Phasing .....	8 – 3	Sec. 8.4.2. Street Types .....	8 – 15
Sec. 8.1.3. Construction Surety .....	8 – 3	Sec. 8.4.3. Sensitive Area Streets .....	8 – 16
Sec. 8.1.4. Acceptance .....	8 – 3	Sec. 8.4.4. Local Streets .....	8 – 18
Sec. 8.1.5. Warranty .....	8 – 3	Sec. 8.4.5. Mixed Use Streets .....	8 – 20
Sec. 8.1.6. Reservation of Public Land .....	8 – 4	Sec. 8.4.6. Major Streets .....	8 – 23
Sec. 8.1.7. Easements .....	8 – 4	Sec. 8.4.7. Industrial and Service Streets .....	8 – 27
Sec. 8.1.8. Names and Numbering .....	8 – 4	Sec. 8.4.8. Private Accessways .....	8 – 29
Sec. 8.1.9. Subdivision Monuments .....	8 – 4	<b>Article 8.5. Existing Streets</b>	<b>8 – 30</b>
Sec. 8.1.10. Fee in Lieu .....	8 – 5	Sec. 8.5.1. General Provisions .....	8 – 30
<b>Article 8.2. Infrastructure Sufficiency</b>	<b>8 – 6</b>	Sec. 8.5.2. Streetscape Types .....	8 – 32
Sec. 8.2.1. In General .....	8 – 6	Sec. 8.5.3. Nonconforming Streetscapes .....	8 – 35
Sec. 8.2.2. Streets .....	8 – 6	Sec. 8.5.4. Existing Private Streets .....	8 – 35
Sec. 8.2.3. Water Supply .....	8 – 7	<b>Article 8.6. Reimbursements</b>	<b>8 – 36</b>
Sec. 8.2.4. Wastewater Disposal .....	8 – 7	Sec. 8.6.1. Greenways .....	8 – 36
Sec. 8.2.5. Fire Suppression .....	8 – 7	Sec. 8.6.2. Minor Utility Lines .....	8 – 37
Sec. 8.2.6. Stormwater .....	8 – 7	Sec. 8.6.3. Streets .....	8 – 38
<b>Article 8.3. Blocks, Lots, Access</b>	<b>8 – 8</b>	Sec. 8.6.4. Expiration of Reimbursement .....	8 – 38
Sec. 8.3.1. Intent .....	8 – 8	<b>Article 8.7. Utilities</b>	<b>8 – 39</b>
Sec. 8.3.2. Blocks .....	8 – 8	Sec. 8.7.1. Water Supply .....	8 – 39
Sec. 8.3.3. Lots .....	8 – 10	Sec. 8.7.2. Sewage Disposal .....	8 – 39
Sec. 8.3.4. Subdivision Access .....	8 – 10	Sec. 8.7.3. Public Water and Sewer Stubs .....	8 – 40
Sec. 8.3.5. Site Access .....	8 – 11	Sec. 8.7.4. Underground Utilities .....	8 – 40
Sec. 8.3.6. Administrative Design Adjustment Findings .....	8 – 14		

**Article 8.8. Surface Water Drainage 8 – 42**

Sec. 8.8.1. Connection to Sanitary Sewer Prohibited..... 8 – 42  
Sec. 8.8.2. Piping of Watercourses ..... 8 – 42  
Sec. 8.8.3. Stormwater Control Plans ..... 8 – 42

**Article 8.9. Facility Fees 8 – 43**

Sec. 8.9.1. Facility Fees Imposed on New Construction ..... 8 – 43  
Sec. 8.9.2. Facility Fee Exceptions ..... 8 – 43  
Sec. 8.9.3. Computation of Fees..... 8 – 43  
Sec. 8.9.4. Funds Collected ..... 8 – 44  
Sec. 8.9.5. Penalties..... 8 – 45

**Article 8.10. Enforcement 8 – 46**

Sec. 8.10.1. Violations and Violators..... 8 – 46  
Sec. 8.10.2. Remedies and Penalties ..... 8 – 46

## Article 8.1. General Provisions

### Sec. 8.1.1. Applicability

- A. This Chapter applies to all development within the City or within the City's extraterritorial jurisdiction as set forth in *Sec. 10.2.5.* and *Sec. 10.2.8.*
- B. No construction shall commence until all required plans, profiles and specifications have been reviewed and approved by the City or other governmental approving agency.
- C. No City services or utilities shall be extended or furnished to any development until the applicant has installed the improvements specified in this UDO or guaranteed their installation as provided for in this UDO.
- D. Waivers to this Chapter are approved by the City Council pursuant to *Sec. 10.2.5.E.2.* The Public Works Director where specifically authorized may approve administrative design adjustments. Any adjustment not approved by the Public Works Director may in the sole discretion of the developer be brought to the City Council as a waiver request.
- E. All improvements must conform with all adopted City plans.

### Sec. 8.1.2. Phasing

- A. If not otherwise set out as part of the preliminary subdivision plan, lots may be recorded and public improvements may be constructed in phases.
- B. A phasing plan shall be submitted in accordance with *Sec. 10.2.5.E.7.*

### Sec. 8.1.3. Construction Surety

- A. If all development-related improvements and installations are not completed and accepted by the City prior to a request to record all or a part of any subdivision or issuance of a building permit for any site plan, whichever first occurs, a security instrument shall be posted, in lieu of completion of the work, in an amount of 125% of the estimated construction cost of the development-related improvements which remain incomplete and with surety and conditions satisfactory to the City, providing for and securing to the City the actual construction and installation of improvements.
- B. All development-related improvements that are secured by a surety shall be installed prior to the issuance of the first certificate of occupancy within the subdivision phase or prior to the issuance of the first certificate of occupancy

for the site plan, whichever event first occurs on the property. Except the final coat of asphalt for street improvements and the installation of permitted street furniture or sidewalks may at the option of the applicant be installed within 24 months following the issuance of the first certificate of occupancy provided surety in the amount of 125% of these improvements are first provided to the City. Where improvements are required on a State-maintained road, a 100% construction surety is required. In this instance, proof of bond or surety with the State must be supplied to the City.

- C. Where the Public Works Director determines that landscaping in the public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with *Sec. 8.5.1.B.* The landscaping improvements shall be installed within 12 months of issuance of the conditional letter of acceptance.

### Sec. 8.1.4. Acceptance

Any development-related improvements shall not be officially accepted until the improvements have been inspected by the City, corrections are made in the field and on the approved infrastructure construction plans, a reproducible copy of the as-built drawings is provided to the Public Works Department and the warranty required in the following section is provided to the City.

### Sec. 8.1.5. Warranty

- A. All development-related improvements must have a warranty guaranteeing the work against defects for a period of 2 years from the date of final acceptance of construction.
- B. If the development-related improvements are constructed at different times, then the guarantee shall continue until 2 years from the date of final acceptance of the improvement last completed.
- C. The warranty shall list the City as a beneficiary.
- D. A warranty surety shall be provided in an amount of 15% of the estimated value of the warranted development-related improvements. The surety shall expire 6 months after the expiration of the warranty period.

### Sec. 8.1.6. Reservation of Public Land

- A. Where a proposed park, greenway, open space, school, fire station or other public use shown in the Comprehensive Plan is located in whole or in part in a development, the City Council may require the reservation of the land for future use.
- B. The reservation shall continue in effect for a period of not more than 1 year from the date of approval of the preliminary plan or site plan. This reservation period may be extended for an additional year upon submission of a letter to the City Council of intent to purchase by the appropriate governmental agency. Further extensions may be permitted upon mutual agreement between the land owner and the City Council, each of which shall not exceed 2 years.

### Sec. 8.1.7. Easements

- A. Platted easements and deed of easements shall be provided in the locations and dimensions required by the City in order to:
  1. Allow for adequate storm drainage facilities;
  2. Allow for proper installation of water and sewer lines, whether immediately proposed or necessary for adequate service in the future;
  3. Allow for cross-access between properties;
  4. Allow for adequate transit facilities and access;
  5. Allow for adequate pedestrian and bicycle access;
  6. Allow for adequate right-of way for street types;
  7. Allow for adequate public access; and
  8. Allow for adequate slope for roadway construction.
- B. Easement widths shall be specified by the City as necessary to accommodate existing and future needs as well as construction and repair of facilities. For drainage easements, the widths should be sufficient to accommodate areas anticipated to be inundated by stormwater.

### Sec. 8.1.8. Names and Numbering

- A. The proposed name of a subdivision, site plan and proposed street names shall not duplicate or too closely approximate, phonetically, the name of any other subdivision, site plan or street.

- B. Words that are part of a name and are generic in their meaning (e.g. "river," "woods," "hills") shall not be considered as duplicates of other similar uses of words.
- C. House or building numbers shall conform to the system established for the City.

### Sec. 8.1.9. Subdivision Monuments

#### A. Permanent Markers

1. Permanent markers shall be placed at locations of the subdivision in accordance with *Sec. 8.1.9.B*.
2. Permanent markers must be made of concrete at least 3 feet long and 4 inches square or in diameter with appropriate markings on top. The location and coordinates of each of these markers shall be shown on the subdivision plat.

#### B. Coordinate System

1. Permanent markers shall be placed at one or more corners of the subdivision that are coordinated with a horizontal control monument of some United States or State agency survey system, such as the North Carolina Geodetic Survey System, where such monument is within 2,000 feet of a corner.
2. Where the North Carolina Grid System coordinates of the monument are on file with the state, the coordinates of both the referenced corner and the monuments used shall be computed and shown in X (easting) and Y (northing) coordinates on the map.
3. The coordinates shall be identified as based on "NAD 83" indicating North American datum of 1983, or as "NAD 27," indicating North American datum of 1927. Where such a monument is not available, the tie shall be made to some pertinent and permanent recognizable landmark or identifiable reference point.

#### C. Corner Markers

Corner markers shall be set at the corners of all lots and shall consist of metal pipes not less than  $\frac{3}{4}$  of inch in diameter and 2 feet long.

#### D. Reference Mark

1. Whenever any portion of any lot in the subdivision lies within a floodprone area, a reference mark in the form of an "X" indicating the elevation in relation to mean sea level to the nearest  $\frac{1}{10}$  of 1 foot shall be located on a permanent marker or structure such as a culvert, bridge, head wall or wing wall or as otherwise approved by the Public Works Director.
2. The elevation and a description of the location of the reference mark shall be indicated on the subdivision plats, which contain lots in floodprone areas.

#### Sec. 8.1.10. Fee in Lieu

Where the Public Works Director determines that construction of public improvements would not be feasible, a fee in lieu may be permitted. In this instance, right-of-way dedication and all necessary easements shall be dedicated to the City. Infrastructure construction plans may be required to determine the extent of public improvements and easements.

## Article 8.2. Infrastructure Sufficiency

### Sec. 8.2.1. In General

- A. To lessen congestion in the streets and to facilitate the efficient and adequate provision of transportation, water and sewage and to secure safety from fire, every subdivision plan and site plan shall be subject to a determination of the sufficiency of infrastructure, as defined below according to the established levels of service in this Article.
- B. Infrastructure shall be considered sufficient where it is demonstrated to have available capacity to accommodate the demand generated by the proposed development as well as other approved developments and PD Master Plans.
- C. In order to avoid undue hardship, the applicant may propose to construct or secure sufficient funding for the facilities necessary to provide capacity to accommodate the proposed development at the adopted level of service. The commitment for construction or advancement of necessary facilities shall be included as a condition of development.

### Sec. 8.2.2. Streets

- A. Required street capacity shall be measured based on the methodology of the Highway Capacity Manual.
- B. The impact of proposed development shall be measured by AM and PM peak trips based on the methodology of the Institute of Transportation Engineers (ITE).
- C. Adequate streets shall be provided consistent with the requirements of this Chapter provided a level of service E or better is maintained.
- D. There are 3 required traffic impact assessment thresholds:
  1. Trip Generation Report (a test of AM/PM peak hour traffic);
  2. Traffic Assessment (where the AM/PM peak hour traffic fails to meet adequate levels of service, this study reviews queueing and delays); and
  3. Traffic Impact Analysis (where queueing and delays are unacceptable, this full analysis includes calculation of trips, delay, queueing and capacity at intersections).
- E. Where a trip generation report or traffic impact analysis demonstrates a degradation of overall intersection level of service below level of service E or

impacts to an existing intersection operating at level of service F, the proposed site plan may be approved provided that:

1. The residential density does not exceed 50 units per acre; or
  2. The office floor area ratio does not exceed 0.5; or
  3. The floor area ratio for commercial uses does not exceed 0.25; or
  4. The peak hour delay at the intersection does not exceed what would be produced by development consistent with paragraphs 1., 2. or 3. above as shown by a Traffic Impact Analysis.
  5. Where paragraphs *Sec. 8.2.2.E.1.*, *Sec. 8.2.2.E.2.*, *Sec. 8.2.2.E.3.* or *Sec. 8.2.2.E.4.* are selected, the applicant shall prepare and submit a traffic mitigation plan to the Public Works Director. The mitigation plan shall identify capital projects and phasing strategies that would bring the development impact to within the acceptable threshold specified in paragraph E.4 above. This plan may identify improvements undertaken by the private sector, the public sector or both. Site plan approval shall not be granted until the Public Works Director determines that the plan provides reasonable and adequate mitigation. Factors to be considered by the Public Works Director include whether: the cost of the mitigation measures exceeds the value of the proposed development; transportation demand management strategies including multi-modal improvements are included; alternative access strategies are considered; and new street connections are evaluated.
- F. An exception to *Sec. 8.2.2.E.* shall be granted for one or more of the following situations:
1. The City has a capital improvement project within the adopted 5-year Capital Improvement Program that would improve the level of service above level F;
  2. NCDOT has proposed a project within the first 4 years of the adopted 7-year Transportation Improvement Program that would improve the level of service above level F;
  3. There is within  $\frac{1}{4}$  mile of the site plan an existing or funded transit stop that is served by one of the following: fixed or dedicated-guideway transit, 5 vehicles an hour on a single route in 1 direction during peak commuting hours or 10 vehicles an hour in any direction during peak commuting hours;
  4. The site is mapped with a conditional use district approved within the prior 20 years that includes a trip budget as a zoning condition; or

5. If the property is zoned Downtown Mixed Use (DX-).

### **Sec. 8.2.3. Water Supply**

- A. Water supply shall be determined based on system capacity and average and peak flows.
- B. The minimum size of any water line shall meet current Public Utilities Handbook requirements and may require off-site improvements.

### **Sec. 8.2.4. Wastewater Disposal**

- A. Wastewater disposal shall be determined based on system capacity and average and peak flows.
- B. The minimum size of any wastewater line shall meet current Public Utilities Handbook requirements and may require off-site improvements.

### **Sec. 8.2.5. Fire Suppression**

- A. Required fire flow shall be determined using the methodology of the Insurance Services Office (ISO).
- B. In determining the impact of the proposed development on fire suppression, the City shall consider water pressure available to the development.

### **Sec. 8.2.6. Stormwater**

- A. The minimum configuration of any stormwater facility shall meet current Stormwater Manual requirements and may require off-site improvements.
- B. When development of an area changes the flow regime from sheet flow to concentrated flow, the drainage system shall be designed to minimize impacts of the flow on adjoining properties.

## Article 8.3. Blocks, Lots, Access

### Sec. 8.3.1. Intent

1. The intent of the maximum block perimeter and connectivity regulations is to provide a well-connected street network.
2. Large blocks with limited connectivity discourage walking, contribute to street congestion and add driving distance that can negatively impact emergency services. New streets should be designed to consider future development.
3. The access regulations are intended to provide safe and convenient vehicular and pedestrian access within developments and between adjacent developments and to lessen traffic congestion. Pedestrian, bike and vehicular access should be safe, direct and convenient.
4. Design adjustments to the requirements of this Article may be appropriate where topographic changes are too steep, where existing buildings, streams or other natural or man-made obstructions or site layout of developed properties prevent cross access, where adjoining uses are incompatible or where strict compliance with this UDO would pose a safety hazard. See Sec. 8.3.6.

### Sec. 8.3.2. Blocks

#### A. Block Perimeters

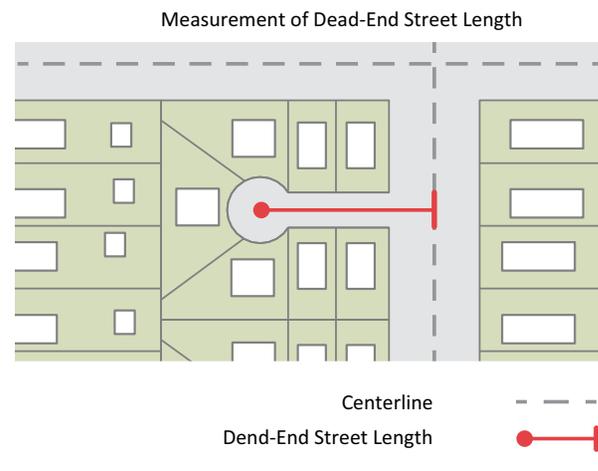
##### 1. Applicability

The block perimeter standards apply to preliminary subdivision plans, final plats and site plans submitted in accordance with Sec. 10.2.5. and Sec. 10.2.8.

##### 2. Block Standards

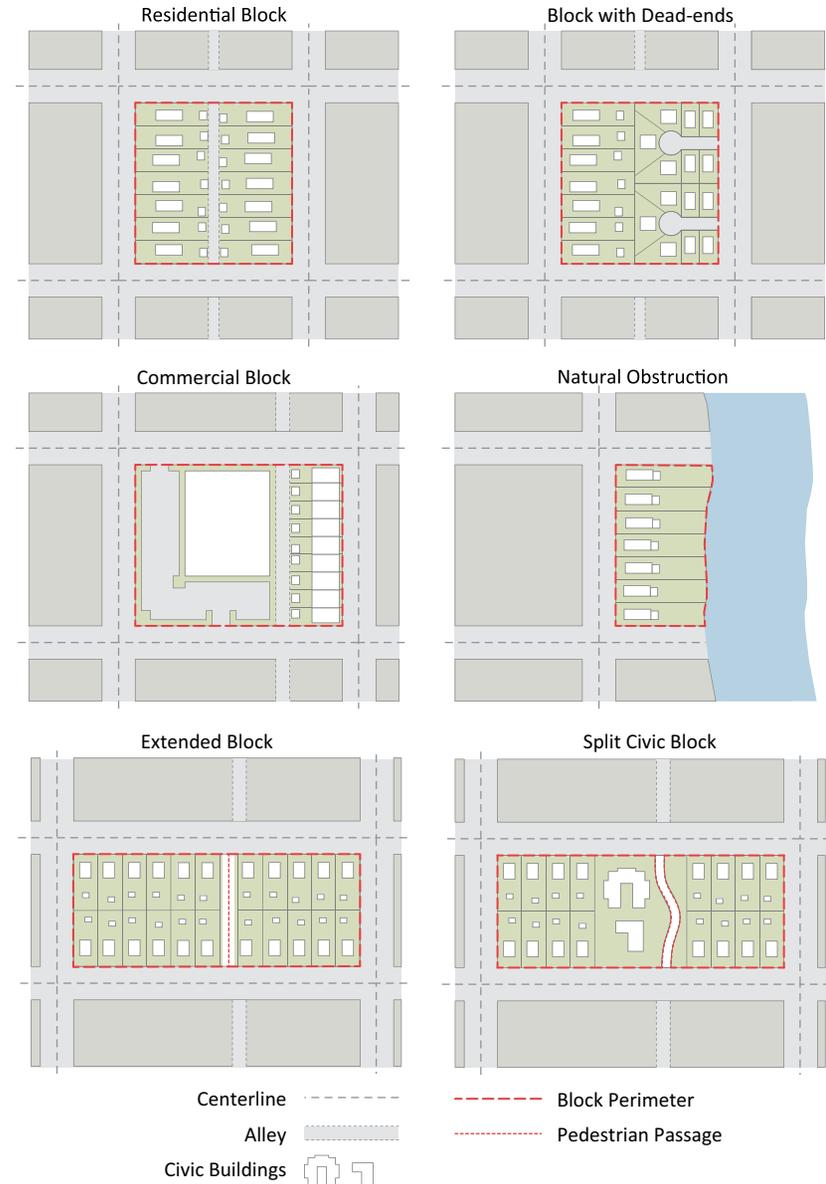
- a. Residential blocks must have sufficient width to provide for 2 tiers of residential lots, except where single tier lots are required to accommodate single-loaded streets where across from a public park or open space, to allow for unusual topographical conditions or when adjacent to the outer perimeter of a subdivision.
- b. The following table establishes the maximum block perimeter and maximum length for a dead-end street by zoning district. In the event that a single block contains more than 1 zoning district, the most restrictive requirement applies.

	Block Perimeter (max)	Dead-End Street (max)
<b>R-1, R-2, R-4, R-6: By Average Lot Size on Block</b>		
40,000+ sf	8,000'	1,000'
20,000 - 39,999 sf	6,000'	750'
10,000 - 19,999 sf	5,000'	600'
6,000 - 9,999 sf	4,500'	550'
up to 5,999 sf	3,000'	400'
<b>R-10: By District</b>		
R-10	2,500'	300'
<b>Mixed Use Districts</b>		
DX-, -TOD	2,000'	Not allowed
RX-, NX-, CX-, OX-: up to 4 stories	3,000'	400'
RX-, NX-, CX-, OX-: 5+ stories	2,500'	300'
OP-, IX-	4,000'	500'
<b>Special Districts</b>		
CM, AP	n/a	n/a
IH	6,000'	400'
MH	3,000'	400'
CMP, PD	4,000' or based on master plan	400' or based on master plan



## B. Block Measurement

1. A block is bounded by a public right-of-way (not including an alley). All public rights-of-way proposed as part of a development must be improved with a street.
2. Block perimeter is measured along the edge of the property adjoining the public right-of-way, except for the measurement of dead-end streets, which are measured from intersecting centerlines.
3. The maximum block perimeter may be extended by 50% where the block includes a pedestrian passage (see Sec. 8.4.8.) or an alley (Sec. 8.4.7.) that connects the 2 streets on opposing block faces. Pedestrian passages and alleys may connect dead-end streets.
4. A block may be broken by a civic building or open lot, provided the lot is at least 50 feet wide and deep and provides a pedestrian passage meeting the requirements of Sec. 8.4.8. that directly connects the 2 streets on each block face.
5. Within a single phase of any subdivision or development, individual block perimeters may exceed the maximum by 25% provided that the average of all block perimeters in the phase does not exceed the maximum.
6. The Public Works Director may waive the block perimeter requirements or maximum dead-end street length consistent with Sec. 8.3.6., when steep slopes in excess of 25%, freeways, waterways, railroad lines, preexisting development, tree conservation areas, stream buffers, cemeteries, open space or easements would make the provision of a complete block infeasible or does not advance the intent of this Article.
7. Where the block pattern is interrupted by public parkland, including greenways, that is open and accessible to the public, pedestrian access points shall be provided with a minimum spacing equal to  $\frac{1}{2}$  of the maximum block perimeter.



### Sec. 8.3.3. Lots

#### A. Lot Frontage

Every lot shall have frontage on a public street, except those developments which were approved for private streets prior to the effective date of this UDO. Except as otherwise stated in this UDO, all lots must front on a street that has a pavement width of at least 20 feet.

#### B. Lot Arrangement

1. Lots shall be subdivided to permit conformance with all laws and ordinances and to ensure for orderly urban growth, proper building arrangement and to provide City services and facilities.
2. Lot dimensions shall provide for the potential development of all lots and future compliance with the development standards of this UDO.

#### C. Principal Structures Per Lot

In the R-1, R-2, R-4 and R-6 districts, only 1 principal structure is permitted per lot. This does not include cottage courts, townhomes and apartments, condominiums or specifically allowed nonresidential uses as set forth in Sec. 6.1.4.

#### D. Lot Dimensions

1. Lots that are occupied or are intended to be occupied shall conform with the minimum lot size, lot width and lot depth requirements provided under *Chapter 2. Residential Districts, Chapter 3. Mixed Use Districts and Chapter 5. Overlay Districts.*
2. Exceptions to the minimum lot size, lot width and lot depth requirements fall under the subdivision waiver process and must be approved in accordance with Sec. 10.2.5.E.2.

#### E. Recombination of Lots

The recombination of lots shall be done in accordance with Sec. 10.2.6.

### Sec. 8.3.4. Subdivision Access

#### A. Open Access

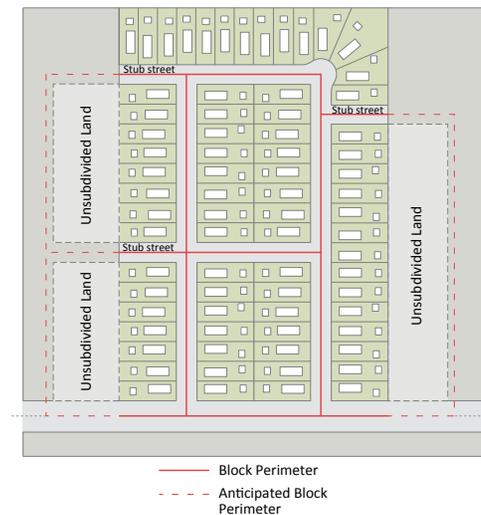
Subdivisions must provide roadways that remain permanently open to the public and provide community-wide access as part of an overall connected street network.

#### B. Connectivity Required

Proposed streets must be interconnected and must connect with adjacent streets external to the subdivision in order to provide multiple routes for pedestrian and vehicle trips from, to and within the subdivision.

#### C. Stub Streets

1. Where a development adjoins unsubdivided land, stub streets within the new subdivision shall be extended to the meet maximum block perimeter standards of Sec. 8.3.2.
2. The stub street must be extended to the boundary of the abutting property to the point where the connection to the anticipated street is expected.
3. Stub streets must be located so that the portion of the block perimeter located on the subject property does not exceed 50% of the applicable block perimeter maximum.



4. If a stub streets exists on an abutting property, the street system of any new subdivision must connect to the stub street to form a through street.
5. When the entirety of a creek crossing is in the subdivision, the crossing must be in a single phase in its entirety.
6. When stubbing to the edge of the site, the stub street will be built to the furthest point possible without NCDWQ approval and a fee in lieu of construction is paid for the remainder. Any right-of-way and slope easements needed to build the connection shall be dedicated.
7. Where a stub street is provided, a barricade using a design approved by the Public Works Director must be constructed at the end of the stub street, pending the extension of the street into abutting property. A sign noting the future street extension shall be posted at the applicant's expense.
8. The Public Works Director may eliminate the requirement for a stub street consistent with *Sec. 8.3.6.*, when:
  - a. Steep slopes in excess of 25%; freeways, waterways, railroad lines, preexisting development, tree conservation areas, stream buffers, cemeteries, open space or easements would make the provision of a stub street infeasible; or
  - b. A high intensity nonresidential use is located adjacent to a proposed residential subdivision.

### Sec. 8.3.5. Site Access

#### A. General Access Requirements

1. All existing and proposed development must provide a satisfactory means of vehicular, pedestrian and bicycle ingress and egress to and from a street or an abutting site.
2. All on-site parking areas must have vehicular access from a street, an alley, a drive aisle or a cross-access easement.
3. All on-site parking areas must be designed to allow vehicles to enter and exit the parking area in a forward motion, unless otherwise approved by the Public Works Director. An improved alley may be used as maneuvering space for access to on-site parking areas.

#### B. Pedestrian Access

1. All existing and proposed development must provide safe, direct and convenient pedestrian access connecting main entrances of buildings, establishments or uses on a site that allows for public access, with all other such entrances and with available access points including parking, streets, sidewalks and transit stops with the exception of the following uses which are exempt:
  - a. Single- or two-unit living;
  - b. Multi-unit living with 6 or fewer dwelling units;
  - c. Agricultural use;
  - d. Parks, open space and greenways;
  - e. Cemetery;
  - f. Telecommunication tower;
  - g. Off-premise sign;
  - h. Minor utilities; and
  - i. Other uses not containing a principal building on the premise (with the exception of a parking facility).
2. Pedestrian access shall consist of an accessible, easily-discernible and ADA-compliant walkway or multi-use path with a minimum width of 5 feet.
3. The pedestrian access surface located on private property shall be constructed of concrete, asphalt or other fixed, firm and nonslip material as approved by the Public Works Director.
4. Pedestrian access routes between buildings and public rights-of-way shall be physically separated from vehicular surface areas, except where required to cross a drive aisle; such crossings shall be perpendicular wherever practicable.
5. Site plans containing multiple principal buildings shall submit a phasing plan. The phasing plan shall include all necessary elements to address phasing of walkway construction for the existing principal buildings and uses on the site as new buildings and building expansion occurs in the future.

## C. Driveways

### 1. All Driveways

- a. All driveway design and construction must comply with the Raleigh Street Design Manual, or the Fire Code when conflict exists.
- b. Driveway dimensions measured at the street right-of-way shall be in accordance with the following table:

	Width (min)	Width (max)	Radius (max)
Residential on a local street, up to 6 off-street parking spaces	10'	18'	10'
Residential 7+ off-street parking spaces (one way)	12'	16'	10'
Residential 7+ off-street parking spaces (two-way)	20'	24'	10'
Mixed Use/Commercial (one-way)	12'	18'	10'
Mixed Use/Commercial (two-way)	20'	32'	15'
Industrial/Service	30'	40'	30'

- c. The Public Works Director may require wider driveways where unusual traffic, grade or site conditions exist.

### 2. Driveways for Residential Uses

- a. When an improved alley with a width of at least 20 feet is provided, all vehicular access shall take place from the alley. Access may be taken from the side street on corner lots.
- b. Except for townhouse lots, all lots 40 feet or less in width platted after the effective date of this UDO are required to take vehicular access from an alley.
- c. No residential lot may have more than 2 driveways on the same street. Multiple driveways that service 1 lot may be no closer than 40 feet to each other.
- d. Non-alley loaded driveways may intersect a street no closer than 20 feet from the intersection of 2 street rights-of-way.

- e. Driveways must be located a minimum of 3.5 feet from the side lot line. However, a driveway may be located on the lot line closer than 3.5 feet if it is shared with an adjacent lot.
- f. Parking and driveway areas shall not constitute more than 40% of the area between the front building line and the front property line.

### 3. Driveways for Mixed Use and Nonresidential Uses

- a. If on-site parking areas can be accessed from an improved alley with a right-of-way of at least 24 feet in width, access from the alley is required and new curb cuts along the public right-of-way are not allowed.
- b. Driveways are allowed based on the property frontage of any street. Additional driveways require approval from the Public Works Director.
- c. Driveways accessing up to 80-foot wide street rights-of-way must be spaced 200 feet apart centerline to centerline and driveways accessing more than an 80-foot wide street right-of-way must be spaced 300 feet apart centerline to centerline.
- d. A driveway serving any non-residential use or multi-unit living shall not be permitted to access neighborhood yield or neighborhood local streets unless the proposed access point is the lesser of 300' from an avenue, boulevard or parkway, or the intersection of another public street.
- e. Offers of cross-access shall be prohibited where a proposed non-residential use or multi-unit living may potentially obtain access from a neighborhood or residential street, unless the resulting access meets the provisions of subsection d above.
- f. Driveways may intersect a street no closer than 50 feet from the intersection of 2 street rights-of-way, not including an alley.
- g. Nothing in this section shall prevent all site access to any property.

## D. Cross-Access

All lots abutting a street other than a local street shall comply with the following standards:

1. Internal vehicular circulation areas shall be designed and installed to allow for cross-access between abutting lots;
2. When an abutting owner refuses in writing to allow construction of the

internal vehicular circulation on their property, a stub for future cross-access shall be provided as close as possible to the common property line.

3. When cross-access is waived by the Public Works Director in accordance with Sec. 8.3.6., bicycle and pedestrian connections shall be provided between abutting properties except where there is a perennial wet stream crossing greater than 15 feet in width that interferes with such access.
4. Rights of vehicular and pedestrian access shall be granted to all abutting properties contemporaneously with the recording of the final subdivision plat or prior to issuance of a building permit for an approved site plan, whichever event first occurs on the property after September 1, 2013. This right of cross-access shall be recorded by plat in the register of deeds office in the county where the property is located. By the end of the next business day following the recordation, the applicant shall provide to Planning and Development evidence of recordation of the cross-access agreement. No building permit will be issued until evidence of recordation of the cross-access agreement is provided to the City.
5. The content of the cross-access agreement required by the City shall be as follows:
  - a. Pedestrian and vehicular access is granted to all properties on the same block face as the property owner establishing the cross-access. The owner may make the pedestrian and vehicular access contingent upon the granting of reciprocal vehicular and pedestrian access right to the granting property.
  - b. The location of the pedestrian and vehicular access is described as over all sidewalks, vehicular drives and driveways located on the property or by specific metes and bounds.
  - c. The beneficiaries granted access rights include the lot owners, their successors, heirs and assigns, tenants and subtenants, lenders, employees, customers and guests.
  - d. Each lot owner is required to maintain the vehicular and pedestrian access areas on their lot. Maintenance shall include, but not be limited to repair, fixing potholes and repaving.
  - e. All lot owners and tenants granted vehicular and pedestrian access rights shall have the right together with their contractors, but not obligation, to maintain all portions of pedestrian vehicular and access ways. If

such owners, tenants and their contractors engage in any maintenance activities off their lot, they shall have the right of contribution to be reimbursed for their actual expenses from the defaulting lot owner, provided at least 30 days prior written notice is first provided to the defaulting lot owner.

- f. A temporary construction easement is granted to the abutting lot owner and tenants and their contractors to enter the adjoining property to install connecting internal drives not previously extended to the property line.
- g. A notice provision explaining how and where to send written notice.
- h. A provision prohibiting the erection of fences walls and other obstructions that prevent the use of vehicular and pedestrian access ways.
- i. A statement that the cross access agreement runs with the land and it is binding on all successors, heirs and assigns and that the easement rights are perpetual.
- j. A statement that the cross access agreement is a requirement of the Raleigh City Code and that it may not be terminated or amended in violation of the Raleigh City Code and such amendments and terminations are void ab initio.
- k. The cross access agreement shall be signed by all of owners of the granting property.
- l. All lenders and their trustees with interests in the granting property shall subordinate their security interests to the cross access agreement.

### Sec. 8.3.6. Administrative Design Adjustment Findings

The Public Works Director may in accordance with *Sec. 10.2.18* approve a design adjustment, subject to all of the following findings.

- A. The approved design adjustment meets the intent of this Article.
- B. The approved design adjustment conforms with the Comprehensive Plan and adopted City plans.
- C. The approved design adjustment does not increase congestion or compromise safety.
- D. The approved adjustment does not create any lots without direct street frontage.
- E. The design adjustment is deemed reasonable due to one or more of the following:
  1. Topographic changes are too steep;
  2. The presence of existing buildings, stream and other natural features;
  3. Site layout of developed properties;
  4. Adjoining uses or their vehicles are incompatible;
  5. Strict compliance would pose a safety hazard; or
  6. Does not conflict with an approved or built roadway construction project adjacent to or in the vicinity of the site.
- F. No design adjustment shall be approved when the City Council has authorized a roadway project in the vicinity, where the roadway design has not yet been finalized.

## Article 8.4. New Streets

### Sec. 8.4.1. General Provisions

This Article describes guidelines for the construction of new streets throughout the City and is intended to provide a catalog of pre-approved street types that are appropriate to use. The City has approved a separate Street Design Manual which provides further details.

#### A. Intent

1. The intent of the new streets regulations is to provide a palette of street typologies and design elements that reflect the character of different areas within the City.
2. The new street regulations provide adequate travel lanes for vehicles, cyclists and pedestrians.
3. Administrative design adjustments approved by the Public Works Director pursuant to *Sec. 8.4.1.E* may be appropriate when an existing building would impede roadway expansion; when transitioning from a different street section; or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.
4. Gated public streets shall not be permitted.

#### B. Applicability

1. When a preliminary plan, final plat or site plan proposes the construction of a new street the requirements of this Article apply.
2. Sidewalks, streets and street trees must be installed and constructed in accordance with this Article.
3. Existing streets may remain serving existing development in their current configuration; however, they shall not be extended or substantially rebuilt except in conformance with this Article (see also *Article 8.5. Existing Streets*)

#### C. Letter of Acceptance Required

1. Sidewalks, streets and street trees must be installed prior to the issuance of a letter of final acceptance.
2. A conditional letter of acceptance may be issued in accordance with *Sec. 8.1.3* where the Public Works Director determines that landscaping in the

public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with *Sec. 8.5.1.B*. The landscaping improvements shall be installed within 12 months of issuance of the conditional letter of acceptance.

3. Where determined appropriate by the Public Works Director, the sidewalk and street tree planting area may occur on private property subject to an easement for public access.

#### **D. Tree Planting**

1. Unless otherwise noted below, all trees planted in accordance with this Article must be shade trees.
2. Where overhead utilities exist, 1 understory tree shall be planted every 20 feet on center, on average.
3. All required street trees must meet the design and installation requirements of *Sec. 7.2.7*.
4. Where development abuts a street controlled by the North Carolina Department of Transportation, street trees may not be required in the right-of-way, at the discretion of the North Carolina Department of Transportation. In this instance, a Type C2 street protective yard is required in accordance with *Sec. 7.2.4*.

#### **E. Administrative Design Adjustment Findings**

The Public Works Director may in accordance with *Sec. 10.2.18* approve a street design adjustment, subject to the following findings:

1. The approved adjustment meets the intent of this Article;
2. The approved adjustment conforms with the Comprehensive Plan and adopted City plans;
3. The approved adjustment does not increase congestion or compromise safety;
4. The approved adjustment does not create additional maintenance responsibilities for the City;
5. The approved adjustment has been designed and certified by a Professional Engineer; and
6. The approved adjustment shall address stormwater collection and conveyance and not adversely impact stormwater collection.

### **Sec. 8.4.2. Street Types**

#### **A. Sensitive Area Streets**

1. Sensitive Area Parkway
2. Sensitive Area Avenue
3. Sensitive Area Residential Street

#### **B. Local Streets**

1. Neighborhood Yield
2. Neighborhood Local
3. Neighborhood Street
4. Multifamily Street

#### **C. Mixed Use Streets**

1. Avenue 2-Lane, Undivided
2. Avenue 2-Lane, Divided
3. Avenue 3-Lane, Parallel Parking
4. Main Street, Parallel Parking
5. Main Street, Angle Parking

#### **D. Major Streets**

1. Avenue 4-Lane, Parallel Parking
2. Avenue 4-Lane, Divided
3. Avenue 6-Lane, Divided
4. Multi-Way Boulevard, Parallel Parking
5. Multi-Way Boulevard, Angle Parking

#### **E. Industrial and Service Streets**

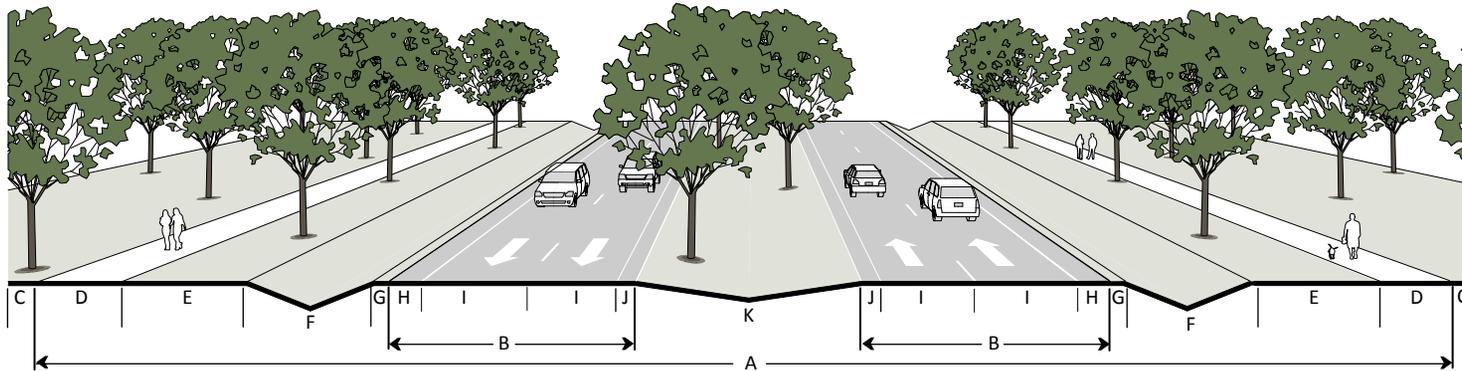
1. Industrial Street
2. Alley, Residential
3. Alley, Mixed Use

#### **F. Accessways**

- a. Primary Internal Access Drive
- b. Pedestrian Passage

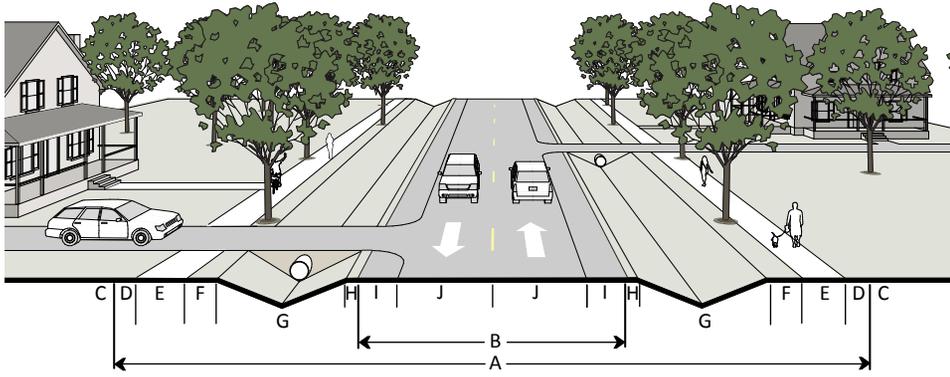
## Sec. 8.4.3. Sensitive Area Streets

### A. Sensitive Area Parkway



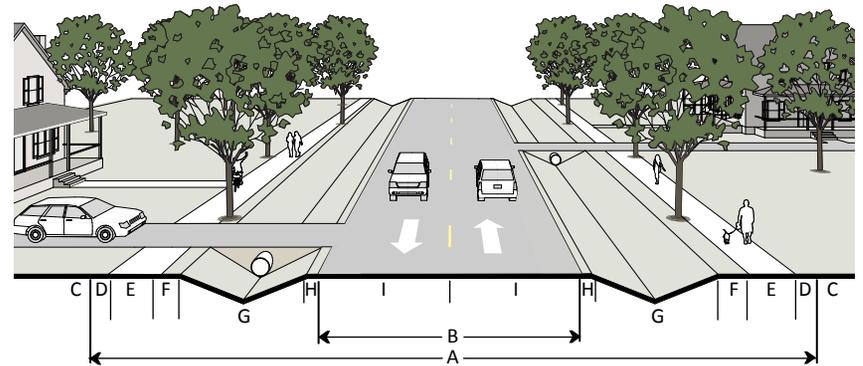
Width	
A Right-of-way width	154'
B Pavement width	32'
Streetscape	
C Maintenance strip (min)	2'
D Multi-use trail (min)	10'
E Planting area (min)	6'
F Drainage (min)	10'
Travelway	
G Grassed shoulder	2'
H Paved shoulder/bicycle lane	8'
I Travel lane	11'
J Paved shoulder	2'
K Median (min)	30'
General	
Walkway type	Multi-use path
Planting type	Tree lawn
Tree spacing	50' o.c. avg

### B. Sensitive Area Avenue



Width	
A Right-of-way width	80'
B Pavement width	30'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	5'
F Planting area (min)	6'
G Drainage (min)	10'
Travelway	
H Grassed Shoulder	2'
I Paved Shoulder	4'
J Travel lane	11'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	50' o.c. avg

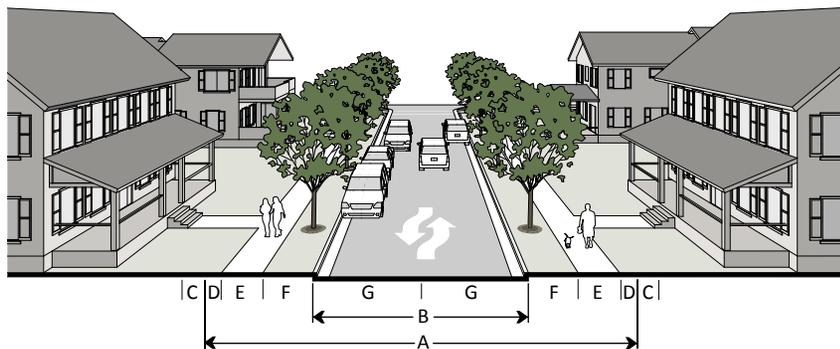
### C. Sensitive Area Residential Street



Width	
A Right-of-way width	70'
B Pavement width	20'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	5'
F Planting area (min)	6'
G Drainage (min)	10'
Travelway	
H Grassed Shoulder	2'
I Travel lane	10'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	50' o.c. avg

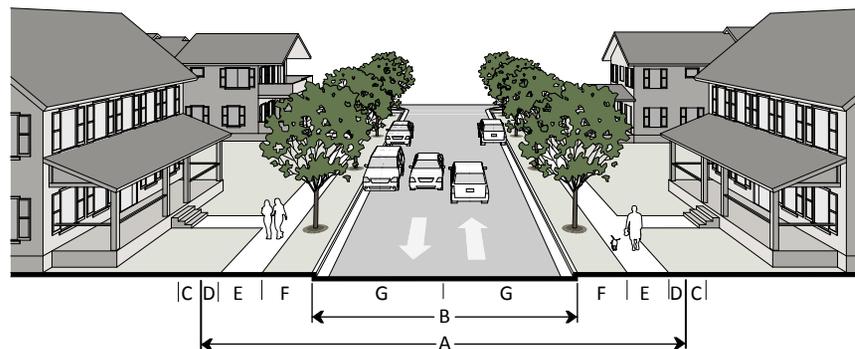
## Sec. 8.4.4. Local Streets

### A. Neighborhood Yield



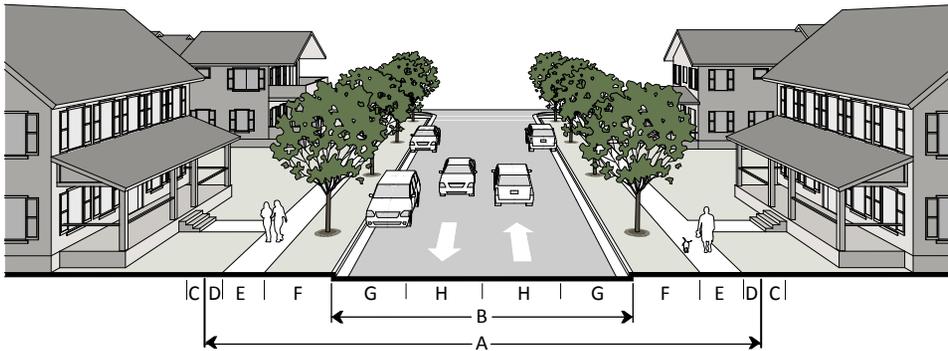
Width	
A Right-of-way width	55'
B Back-of-curb to back-of-curb	27'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Parallel parking/travel lane	13.5'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

### B. Neighborhood Local



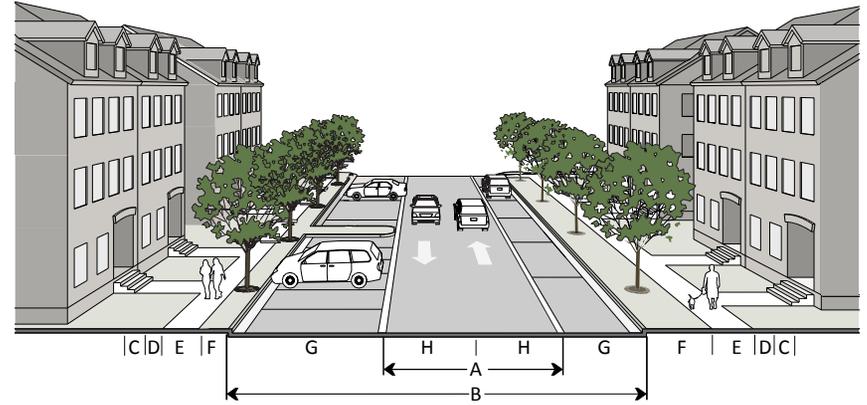
Width	
A Right-of-way width	59'
B Back-of-curb to back-of-curb	31'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Parallel parking/travel lane	15.5'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

### C. Neighborhood Street



Width	
A Right-of-way width	64'
B Back-of-curb to back-of-curb	36'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Parallel parking lane	8'
H Travel lane	10'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

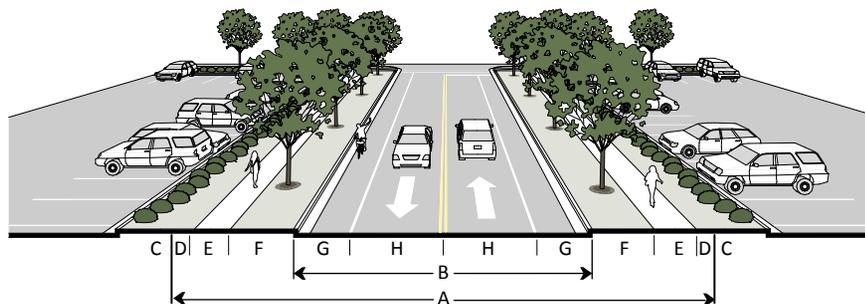
### D. Multifamily Street



Width	
A Right-of-way width	22'
B Back-of-curb to back-of-curb	varies
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip, easement (min)	2'
E Sidewalk, easement (min)	6'
F Planting area (min)	6'
Travelway	
G Parking lane	
Parallel (either side)	8'
Head-in (either side)	18'
60° angle (either side)	19.8'
H Travel lane	11'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg
Parking type	Parallel, head-in, angle

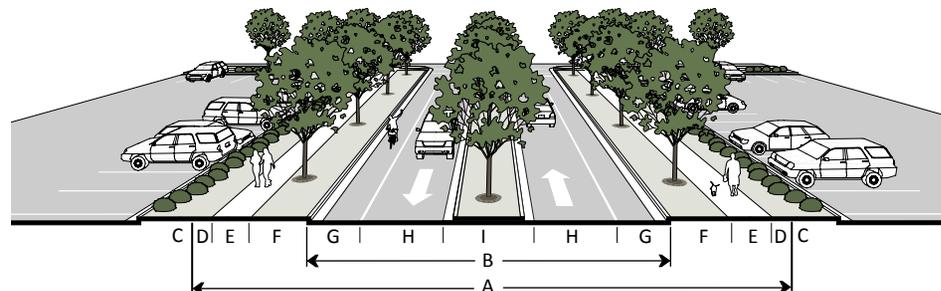
## Sec. 8.4.5. Mixed Use Streets

### A. Avenue 2-Lane, Undivided



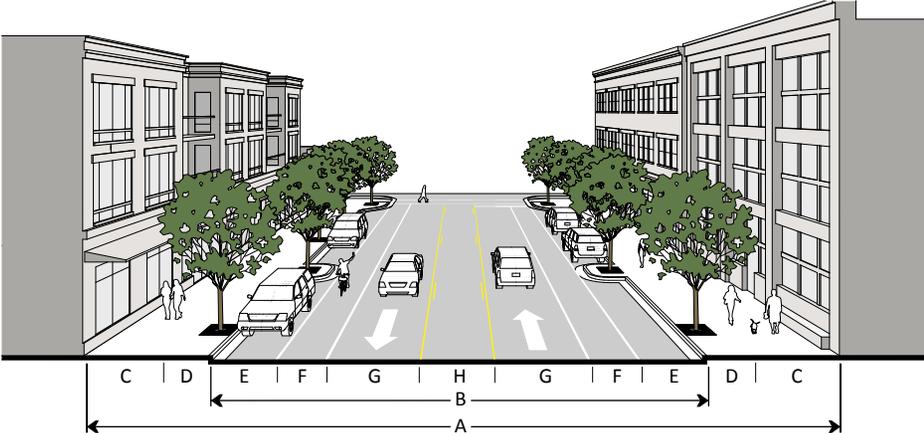
Width	
A Right-of-way width	64'
B Back-of-curb to back-of-curb	36'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Bike lane	7'
H Travel lane	11'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg

### B. Avenue 2-Lane, Divided



Width	
A Right-of-way width	
With center turn lane	75'
With median	79'
B Back-of-curb to back-of-curb	
With center turn lane	48'
With median	52'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Bike lane	7'
H Travel lane	11'
I Center lane	
Striped turn lane	11'
Median	15'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg

**C. Avenue 3-Lane, Parallel Parking**



<b>Width</b>	
A Right-of-way width	
With center turn lane	90'
With median	94'
B Back-of-curb to back-of-curb	
With center turn lane	62'
With median	66'
<b>Streetscape</b>	
C Sidewalk (min)	8'
D Planting area (min)	6'
<b>Travelway</b>	
E Parallel parking lane	8.5'
F Bike lane	6'
G Travel lane	11'
H Center lane	
Striped turn lane	11'
Median	15'
<b>General</b>	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

### D. Main Street, Parallel Parking



Width	
A Right-of-way width	73'
B Back-of-curb to back-of-curb	41'
Streetscape	
C Sidewalk (min)	10'
D Planting area (min)	6'
Travelway	
E Parallel parking lane	8.5'
F Travel lane	12'
General	
Walkway type	Sidewalk
Planting type	Tree grate
Tree spacing	40' o.c. avg
Parking type	Parallel

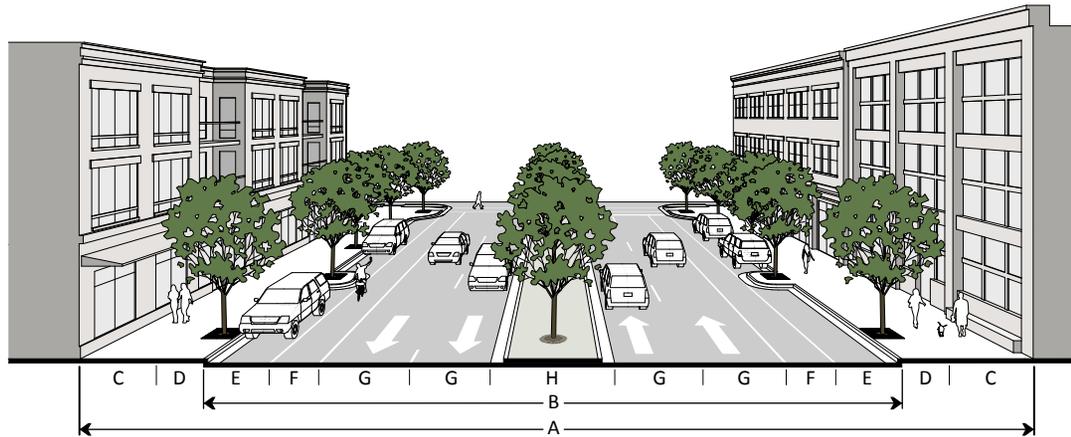
### E. Main Street, Angle Parking



Width	
A Right-of-way width	96'
B Back-of-curb to back-of-curb	64'
Streetscape	
C Sidewalk (min)	10'
D Planting area (min)	6'
Travelway	
E 60° angle parking lane	20'
F Travel lane	12'
General	
Walkway type	Sidewalk
Planting type	Tree grate
Tree spacing	40' o.c. avg
Parking type	60° angle

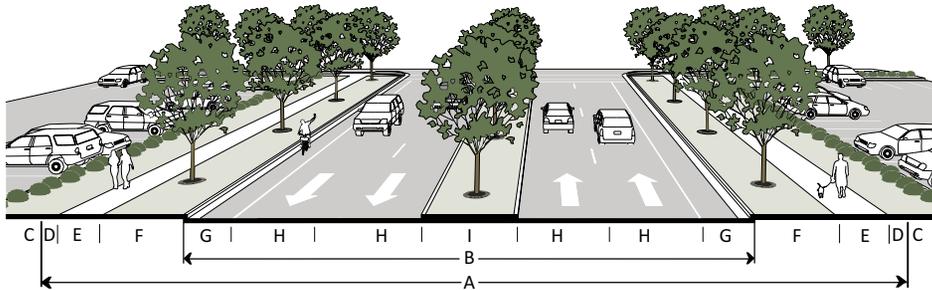
## Sec. 8.4.6. Major Streets

### A. Avenue 4-Lane, Parallel Parking



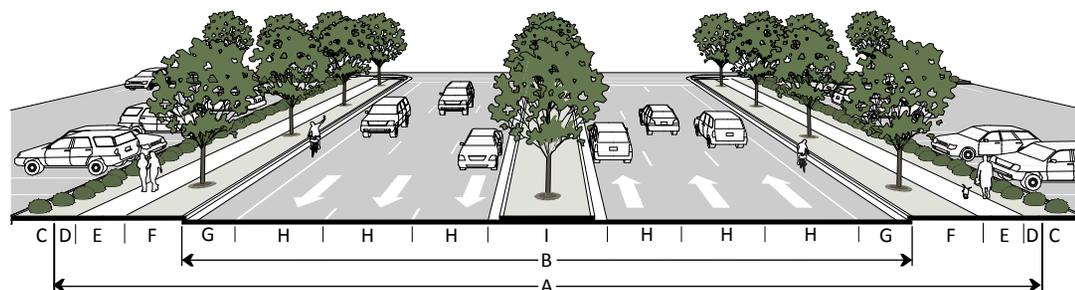
Width	
A Right-of-way width	122'
B Back-of-curb to back-of-curb	90'
Streetscape	
C Sidewalk (min)	10'
D Planting area (min)	6'
Travelway	
E Parallel parking lane	8.5'
F Bike lane	6'
G Travel lane	11'
H Median	17'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

**B. Avenue 4-Lane, Divided**



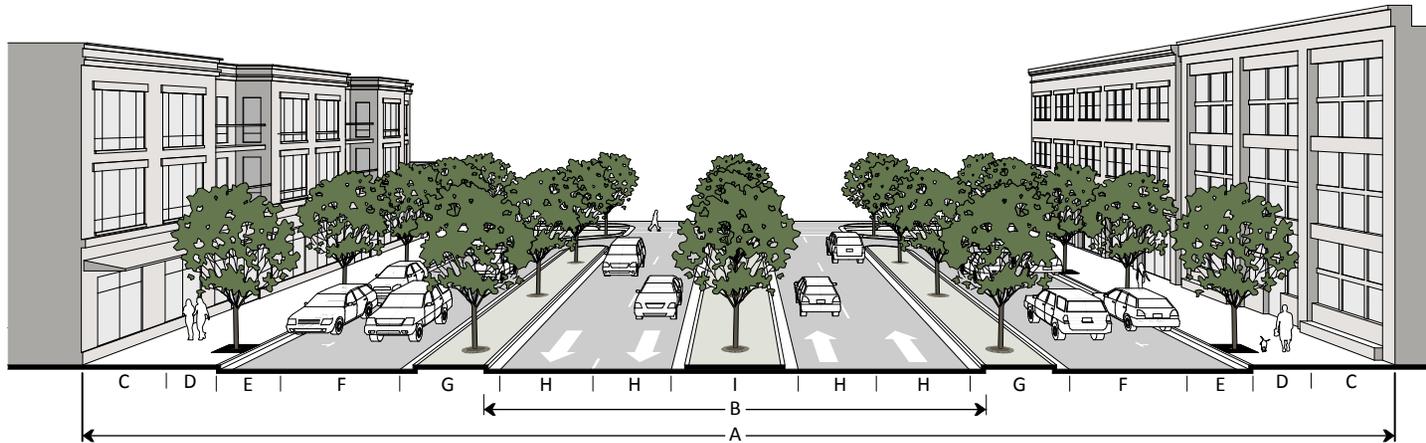
Width	
A Right-of-way width	104'
B Back-of-curb to back-of-curb	76'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Bike lane	7.5'
H Travel lane	11'
I Median	17'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg

**C. Avenue 6-Lane, Divided**



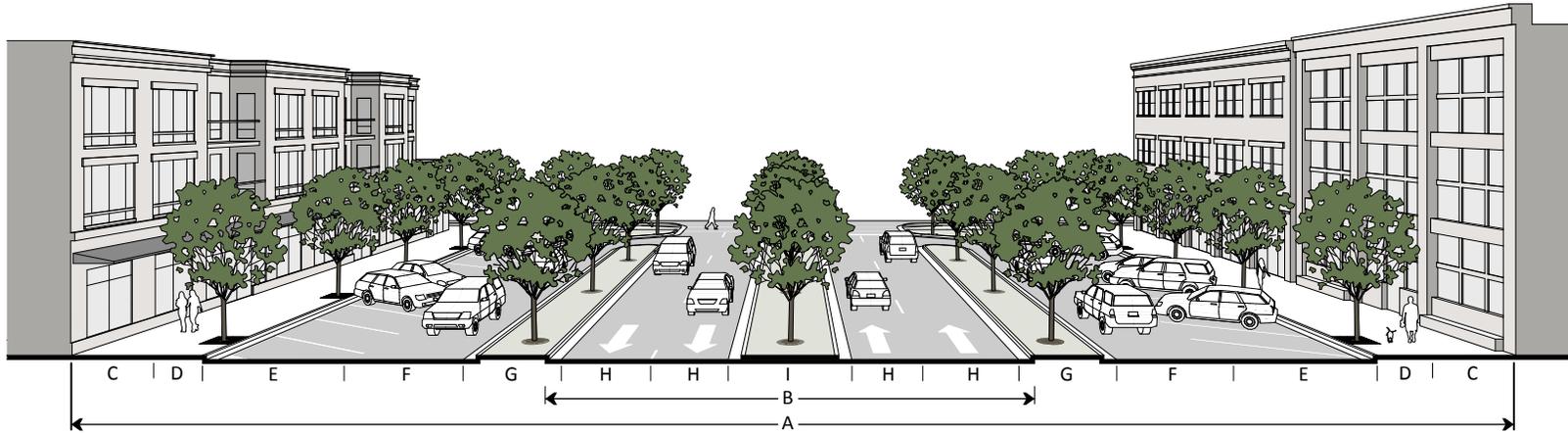
Width	
A Right-of-way width	126'
B Back-of-curb to back-of-curb	98'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Bike lane	7.5'
H Travel lane	11'
I Median	17'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg

**D. Multi-Way Boulevard, Parallel Parking**



<b>Width</b>	
A Right-of-way width	154'
B Back-of-curb to back-of-curb	66'
<b>Streetscape</b>	
C Sidewalk (min)	10'
D Planting area (min)	6'
<b>Access Lane</b>	
E Parallel parking	8.5'
F Access lane	11'
G Median	11'
<b>Travelway</b>	
H Travel lane	11'
I Median	17'
<b>General</b>	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg
Parking type	Parallel in access lane

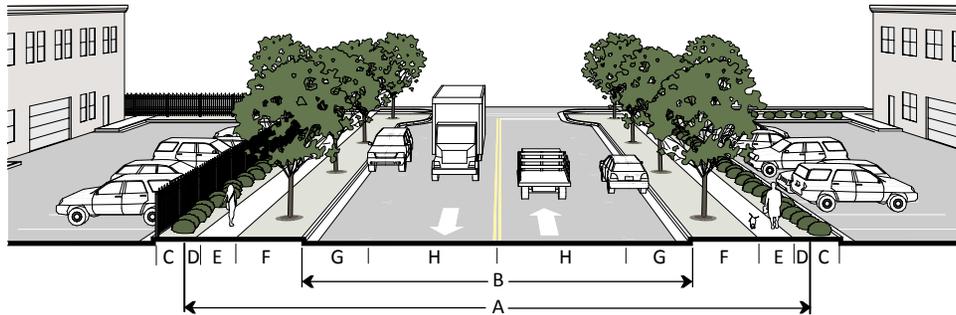
**E. Multi-Way Boulevard, Angle Parking**



Width	
A	Right-of-way width 177'
B	Back-of-curb to back-of-curb 66'
Streetscape	
C	Sidewalk (min) 10'
D	Planting area (min) 6'
Access Lane	
E	60° angle parking 20'
F	Access lane 11'
G	Median 11'
Travelway	
H	Travel lane 11'
I	Median 17'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg
Parking type	60° angle in access lane

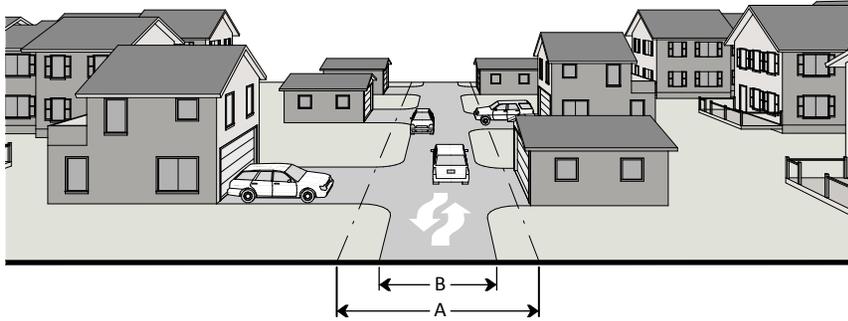
## Sec. 8.4.7. Industrial and Service Streets

### A. Industrial Street



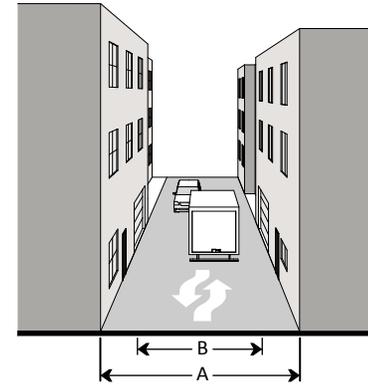
Width	
A Right-of-way width	69'
B Back-of-curb to back-of-curb	41'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Parallel parking lane	8.5'
H Travel lane	12'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

**B. Alley, Residential**



Width	
A Easement width	20'
Travelway	
B Travel lane	16'
B Travel lane, fire service route	20'

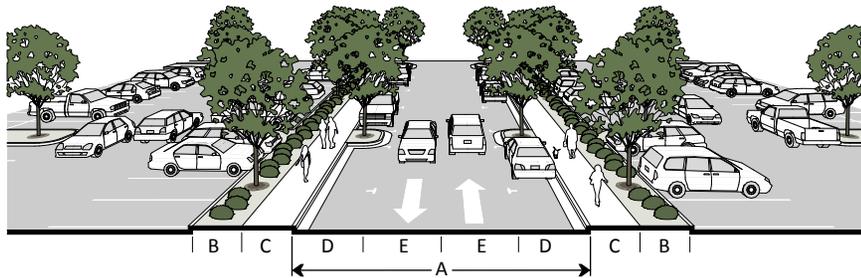
**C. Alley, Mixed Use**



Width	
A Easement width	24'
Travelway	
B Travel lane	20'

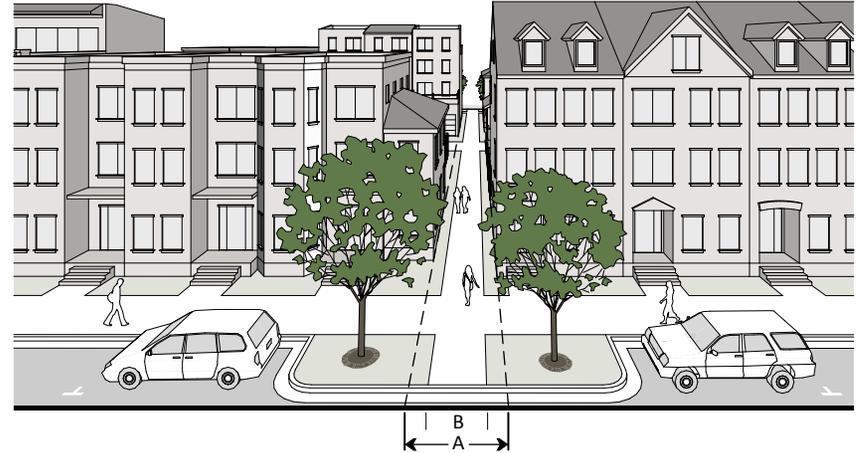
## Sec. 8.4.8. Private Accessways

### A. Primary Internal Access Drive



Width	
A Back-of-curb to back-of-curb	36'
Streetscape	
B Planting strip (min)	5'
C Sidewalk (min)	6'
Travelway	
D Parallel parking lane	8'
E Travel lane	10'
General	
Walkway type	Sidewalk
Parking type	Parallel

### B. Pedestrian Passage



Width	
A Public access easement (min)	20'
Travelway	
B Paved area (min)	10'
General	
Walkway type	Sidewalk

## Article 8.5. Existing Streets

### Sec. 8.5.1. General Provisions

This Article describes guidelines for the construction of street improvements and streetscapes for existing streets throughout the City. It is intended to address when street and streetscape improvements are appropriate through the application of the pre-approved street types in this chapter. The City has an approved Street Design Manual which provides further details.

#### A. Intent

1. The intent of the existing streets regulations is to provide the application of the street typology map and the streetscapes to existing streets to reflect the character and context of areas in the City.
2. The existing street regulations provide adequate travel lanes for vehicles, cyclists and pedestrians.
3. Administrative Design Adjustments approved by the Public Works Director pursuant to *Sec. 8.5.1.G.* may be appropriate when an existing building would impede expansion, when transitioning from a different street section or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.

#### B. Applicability

##### 1. General

- a. Any new development activity and any addition or repair subject to the requirements of *Sec. 10.2.5.* and *Sec. 10.2.8.* must meet street type and streetscape standards of this Article for existing streets abutting the subject property.
- b. The streetscape types of *Sec. 8.5.2.* shall be applied based on the zoning and frontage type applied to the subject property.
- c. Unless otherwise specifically provided, no permit for the construction, reconstruction, extension, repair or alteration of any building, structure or use of land and no building or land or any part of any building or land, may be occupied or used until the streetscape requirements of this Article have been met.
- d. Gated public streets shall not be permitted.

- e. Administrative design adjustments approved by the Public Works Director pursuant to *Sec. 10.2.18.* may be appropriate when an existing building would impede roadway expansion; when transitioning from a different street section; or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.

#### 2. Additions and Repairs

- a. A building or site may be renovated or repaired without meeting the streetscape standards, provided there is no increase in gross floor area or improved site area.
- b. When a building or site is increased in gross floor area or improved site area cumulatively by more than 10%, the streetscape provisions of this Article must be met.

#### 3. Change in Use Exempt

A change in use does not trigger application of the streetscape requirements of this Article.

#### C. Letter of Acceptance

1. Sidewalks, streets and street trees must be installed prior to the issuance of a letter of final acceptance.
2. A conditional letter of acceptance may be issued in accordance with *Sec. 8.1.3.* where the Public Works Director determines that landscaping in the public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with *Sec. 8.5.1.B.* The landscaping improvements shall be installed within 12 months of issuance of the conditional letter of acceptance.
3. Where determined appropriate by the Public Works Director, the sidewalk and street tree planting area may occur on private property subject to an easement for public access.

#### D. Tree Planting

1. Unless otherwise noted below, all trees planted in accordance with this Article must be shade trees.
2. Where overhead utilities exist, 1 understory tree shall be planted every 20 feet on center, on average.

3. All required street trees must meet the design and installation requirements of *Sec. 7.2.7*.
4. Where development abuts a street controlled by the North Carolina Department of Transportation, street trees may not be required in the right-of-way, at the discretion of the North Carolina Department of Transportation. In this instance, a Type C2 street protective yard is required in accordance with *Sec. 7.2.4*.

#### **E. Fee-in-Lieu**

Where the Planning and Development Officer determines that construction of improvements would result in the improvement of less than ½ of a linear block face; an equivalent payment in lieu of construction may be required.

#### **F. Adopted Streetscape Plans**

1. In the event an adopted streetscape plan regulates streetscape improvements, the adopted Plan shall control. The adopted streetscape plans are contained within the Raleigh Street Design Manual.
2. The requirements of this Article are intended to serve as minimum standards. Where a streetscape plan adopted before the effective date of this UDO sets a lower standard, the standard in this Article shall prevail.
3. The City Council may modify an adopted Streetscape Plan following written notice to property owners along the street.

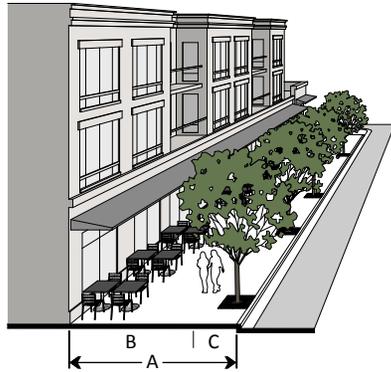
#### **G. Administrative Design Adjustment Findings**

1. The Public Works Director may in accordance with *Sec. 10.2.18*. approve an existing street design adjustment, subject to all of the following findings:
  - a. The approved adjustment meets the intent of this Article;
  - b. The approved adjustment conforms with the Comprehensive Plan and adopted City plans;
  - c. The approved adjustment does not increase congestion or compromise safety;
  - d. The approved adjustment does not create additional maintenance responsibilities for the City; and
  - e. The approved adjustment has been designed and certified by a Professional Engineer.

### Sec. 8.5.2. Streetscape Types

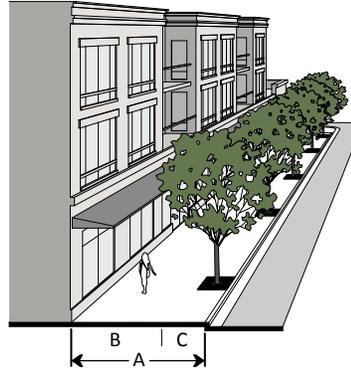
The required streetscape type is determined by the zoning district or by the designated frontage. Where there is a conflict between a designated frontage and the zoning district, the designated frontage standard applies. If more than 1 streetscape can be used, the Planning and Development Officer shall make the final determination. Design specifications for streetscape improvements can be found in the Raleigh Street Design Manual and City Tree Manual.

#### A. Main Street



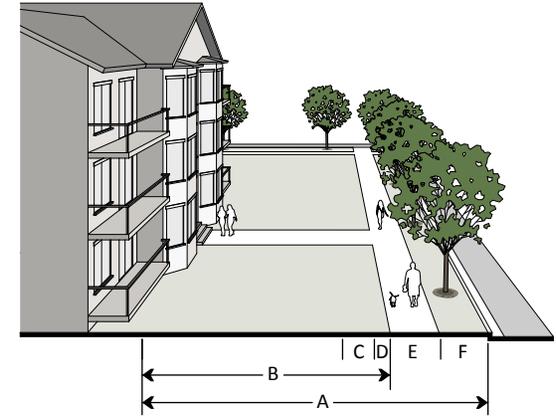
Frontages	
Applicable frontages	-SH, -UG, -UL, -GR, -PL
Zoning Districts	
Applicable zoning districts	Mixed use districts
Width	
A Streetscape width (max)	35'
Streetscape	
B Sidewalk (min)	10'
C Planting area (min)	6'
General	
Walkway type	Sidewalk
Planting type	Tree grate
Tree spacing	40' o.c. avg

#### B. Mixed Use



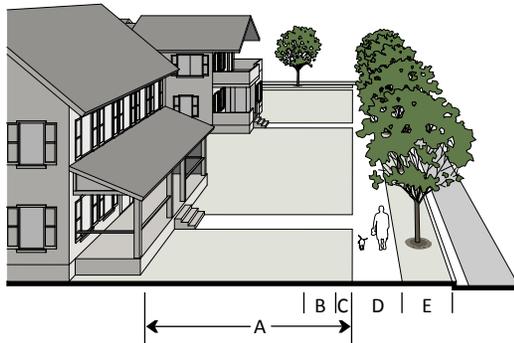
Frontages	
Applicable frontages	-UG, -UL, -GR, -PL
Zoning Districts	
Applicable zoning districts	Mixed use districts
Width	
A Streetscape width (max)	35'
Streetscape	
B Sidewalk (min)	8'
C Planting area (min)	6'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg

#### C. Commercial



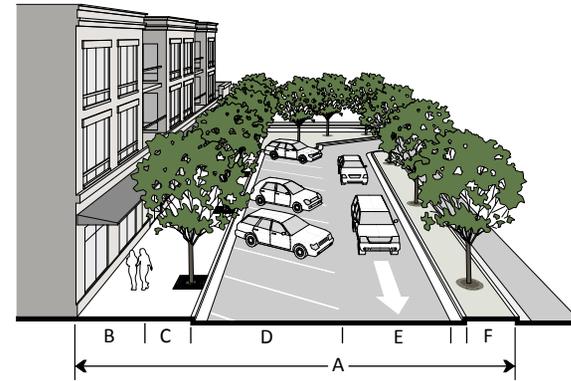
Frontages	
Applicable frontages	-GR, -PL
Zoning Districts	
Applicable zoning districts	Mixed use districts
Width	
A Streetscape width (max)	65'
Streetscape	
B Building setback (min/max)	20' / 50'
C Utility placement	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg
No on-site parking permitted between the building and the street	

### D. Residential



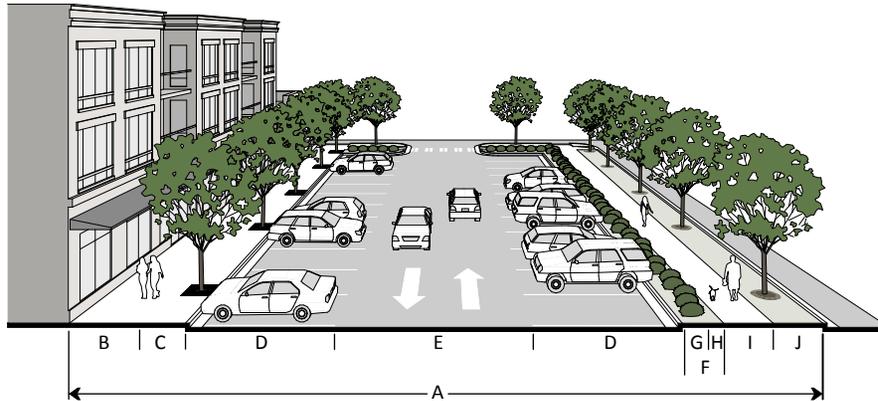
Frontages	
Applicable frontages	-DE
Zoning Districts	
Applicable building types	All districts: detached & attached house
Applicable zoning districts	Residential Districts, MH
Streetscape	
A Building setback (min)	varies
B Utility placement	5'
C Maintenance strip (min)	2'
D Sidewalk (min)	
Typical	6'
Sensitive area	5'
E Planting area (min)	6'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg

### E. Multi-Way



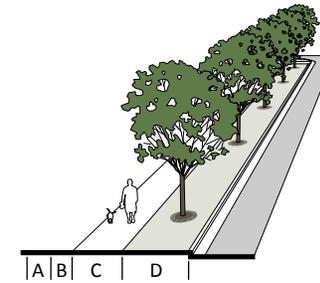
Frontages	
Applicable frontages	-PL
Zoning Districts	
Applicable zoning districts	Mixed Use Districts
Width	
A Streetscape width (max)	65'
Streetscape	
B Sidewalk (min)	10'
C Planting area (min)	6'
D 60° angle parking	20'
E Access lane	11'
F Median (min)	11'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg

## F. Parking



Frontages	
Applicable frontages	-PL
Zoning Districts	
Applicable zoning districts	Mixed Use Districts
Width	
A Streetscape width (max)	120'
Streetscape	
B Sidewalk (min)	8'
C Planting area (min)	6'
D 90° head-in parking (min)	18'
E Access lane (min)	22'
F Planting area (min)	10'
G Utility placement	5'
H Maintenance strip (min)	2'
I Sidewalk (min)	6'
J Planting area (min)	6'
General	
Walkway type	Sidewalk
Area F planting type	36" min hedge/wall (see Sec. 7.2.4.)
Areas C & J planting type	Tree grate / lawn
Tree spacing	40' o.c. avg

## G. Sidewalk and Tree Lawn



Zoning Districts	
Required zoning districts	All districts: Existing streets where no other streetscape applies
Streetscape	
A Utility placement	5'
B Maintenance strip (min)	2'
C Sidewalk (min)	6'
D Planting area (min)	6'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg

### Sec. 8.5.3. Nonconforming Streetscapes

- A. Where a streetscape along an existing street is constrained by an existing building, the Public Works Director may adjust the streetscape standards to the minimum extent necessary to accommodate the existing area between the face of the building and back of curb.
- B. The standards shall be modified in the following order.
  1. Reduce or eliminate the planting area.
  2. If necessary, replace large canopy trees with small trees that are more appropriate for the reduced area. If the planting zone is eliminated, create a bumpout to provide for tree planting.
  3. Reduce the sidewalk to the minimum width necessary to accommodate ADA accessibility.

### Sec. 8.5.4. Existing Private Streets

#### A. General

1. No new private streets are allowed.
2. All existing private streets must remain under maintenance of the homeowners' association and must be maintained to equivalent public street standards.
3. Private alleys must be constructed to the standards in *Sec. 8.4.7.* and the construction standards specified in the Raleigh Street Design Manual.
4. Private alleys are not dedicated to the public and shall not be publicly maintained.

#### B. Homeowners' Association

1. In no case shall the City be responsible for failing to provide any emergency or regular fire, police or other public service when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance or any other factor within the control of the developer, homeowners' association or occupants.
2. In no case shall any approval, permit or certificate granted be valid unless the homeowners' association documents clearly indicate the limitations of governmental responsibility and unless all conveyances indicate those limitations provided, however, the provisions of this section and all other

provisions of the homeowners' declaration are applicable to the portions of the development conveyed and the owners of the conveyed portion, whether or not any such provisions are incorporated into the conveying documents.

#### C. Locked Gate Access

1. Any private street in existence or approved prior to September 1, 2013 may be considered for gated access.
2. All private streets and drives with access limited by locked gates or similar devices must provide a pass-key and lock-box of a type, at a location and installed in a manner as may be required by the City fire department for the provision of emergency access.
3. The owner, including any homeowners' association, shall maintain the lock-box, gate and gate lock in a working order so as to ensure accessibility by emergency personnel and vehicles.
4. The City and other applicable governmental entities and their respective emergency personnel shall be granted in writing the right, without liability, to break the locked gate or such similar device when emergency personnel reasonably believe that doing so is necessary to save life, prevent serious bodily harm, put out a fire, to prevent a crime or to apprehend an apparent lawbreaker or to avert or control a public catastrophe.

#### D. Traffic Flow

It shall be the responsibility of the homeowners' association to establish speed limits and to maintain uninterrupted traffic flow along all private streets. If it is necessary for "no parking" signs to be erected, for street lights to be installed, for repairs to be made or towing of vehicles to be undertaken, this is all to be done at the expense of the homeowners' association.

#### E. Street Signs

All streets must contain identification as required in *Sec. 7.3.13.H.*

#### F. Setbacks and Lot Widths

All private streets shall be treated as public street rights-of-way for purposes of determining required setbacks and lot widths.

## G. Maintenance

The final plat shall be conditioned as follows:

1. Require perpetual maintenance of private streets by a homeowners' association to the same standards as connecting public streets for the safe use of persons using the streets; and
2. State that the City has absolutely no obligation or intention to ever accept such streets as public right-of-way.

## Article 8.6. Reimbursements

### Sec. 8.6.1. Greenways

#### A. Required Greenway Dedication

Subject to the limitations of *Sec. 8.6.1.C.* below, whenever a tract of land included within any proposed residential subdivision or residential site plan includes any part of a greenway designated on the Comprehensive Plan, the greenway shall be platted and dedicated as a greenway easement.

#### B. Greenway Easement Width

Subject to the limitations of *Sec. 8.6.1.C.* below, the greenway required to be platted shall at a minimum, be the product of the following dimensions:

1. Minimum standard width multiplied by the length of the boundary along the banks of the adjoining watercourse;
2. Plus that portion of the watercourse contained within the development when property lines extend to the centerline of the watercourse:
  - a. Neuse River: 150 feet from each bank.
  - b. Crabtree & Walnut Creeks: 100 feet from each bank.
  - c. All other tributaries: As established by the current City Council-approved Raleigh Parks Plan.

#### C. Limitation on Dedication

1. No dedication shall be required for greenway lying outside of any floodplain, floodprone or flood hazard area, but such area shall be reserved in accordance with *Sec. 8.1.6.* for possible City acquisition.
2. The amount of greenway required to be dedicated shall not exceed the total obligation of the development to pay an open space facility fee, as determined by *Article 8.9. Facility Fees*, the number and type of dwelling units allowed by law for the development and the schedule of greenway land values listed in the Development Fee Schedule, kept on file by the Planning and Development Officer and is updated and adopted by the City Council.

#### D. Method and Conditions of Reimbursement

1. The City Council may, in its discretion, change the general term of payment for individual projects and authorize payment in 1 sum immediately or in fixed payments.
2. No payment will be allowed if the dedicated open space is being used to satisfy a requirement for open space based on the underlying zoning district. Reimbursements will be reduced by any open space facility fee credits.
3. The dedicators shall waive their statutory right to withdraw the dedication prior to receiving any payment.
4. Reimbursements shall be fixed at the rate in effect when the dedication occurs.

#### Sec. 8.6.2. Minor Utility Lines

Reimbursement for utility lines shall be made in accordance with §8-2075, §8-2076, §8-2077, §8-2091, §8-2094 and §8-2095 of the Raleigh City Code.

##### A. Inside City Limits

1. For developments inside the corporate limits of the City or developments which have agreed to be annexed by the City, the City will reimburse the developer for costs incurred over and above those required to serve the immediate development.
2. The reimbursement shall be made in 10 equal annual installments with interest at 4% per annum beginning January 1 following the time of final inspection and final acceptance of the improvement by the Public Works Director, but the first installment payment shall not become payable until the second January 1 following final inspection and final acceptance or contract execution, whichever is later.
3. The City Council may in its discretion authorize reimbursement to be paid in one sum immediately or in installments over a period of less than 10 years.
4. The following installations are subject to reimbursement:
  - a. Differential unit costs between a water main 6 inches in diameter and a water main 12 inches in diameter when required by the City and not necessary to serve the subject property.

- b. Differential unit costs between a sewer main over 8 inches in diameter and sewer mains 12 inches in diameter, when required by the City and not necessary to serve the subject property.
- c. Unit cost of off-site utility lines less than 12 inches in diameter constructed by the developer to reach the boundary of the development whether the lines are installed inside or outside the corporate limits of the City.

##### B. Outside City Limits

1. For developments outside the corporate limits of the City, the City will reimburse the developer for the unit cost of off-site utilities less than 12 inches in diameter constructed within the corporate limits of the City by the developer to reach the boundary of the development.
2. The reimbursement shall be made in 10 annual equal installments, without interest. The first payment to become due and payable on the second January 1 following the date of final inspection and final acceptance of the improvement and approval of the cost by the City Council.
3. Current reimbursement fees are listed in the Development Fee Schedule, kept on file by the Planning and Development Officer and are updated and adopted by the City Council.

##### C. Procedural Conditions for Reimbursement

1. Following completion of the improvements acceptable to the Public Works Director, the developer shall furnish the Public Works Director an itemized list of costs identified in the Development Fee Schedule to be reimbursed by the City. The City Council shall approve a contract with the developer, setting forth the terms for reimbursement.
2. The City shall pay such other costs incidental to the development of the general area which, in the opinion of the City Council, should properly be borne by the City. The City shall set forth the terms of such payment.

### Sec. 8.6.3. Streets

#### A. Improvements Eligible for Reimbursement

1. The City will pay to the developer unit costs in the Development Fee Schedule for development-related improvements over and above the unit costs for applicable streets.
2. The following installations are eligible for reimbursement:
  - a. Any street construction in excess of the minimum standard needed to serve the development;
  - b. Any right-of-way dedication in excess of the minimum standard needed to serve the development; and
  - c. Right-of-way for controlled-access freeways.
3. Reimbursements are subject to availability of funds and eligibility for reimbursement through the City's facility fee program.

#### B. Method and Conditions of Reimbursement

1. All general and development-related improvement costs shall be based on the Development Fee Schedule, provided that the City Council shall grant alternative mitigation when the total expenditures for both the thoroughfare facility fees and road improvement costs in excess of the applicable street improvements exceed the costs attributable to the development for Thoroughfare construction within the benefit area as indicated in *Article 8.9. Facility Fees*
2. Current reimbursement fees are listed in the Development Fee Schedule, kept on file by the Planning and Development Officer and are updated and adopted by the City Council.
3. No monetary payments will be allowed if the developer utilizes the dedicated right-of-way for impervious surface coverage in the -FWPOD, -SWPOD or -UWPOD.
4. The dedicators shall waive their statutory right to withdraw dedications prior to receiving any payment.
5. Reimbursements shall be paid at the rate in effect when dedication occurs or construction costs are incurred.

6. The City shall pay such other costs incidental to the development of the general area which, in the opinion of the City Council, should properly be borne by the City. The City Council shall set forth the terms of such payment.

### Sec. 8.6.4. Expiration of Reimbursement

Any request for reimbursement for street, greenway or utility installation must be submitted to the City within 2 years of completion and final acceptance by the City or State, whichever is applicable.

## Article 8.7. Utilities

### Sec. 8.7.1. Water Supply

#### A. All Public Water Mains

All public water mains shall be installed in all public road rights-of-way, except as allowed by the Raleigh Director of Public Utilities to address existing water quality problems or severe topographic or subsurface constraints.

#### B. Within City Limits

1. When a development is located within the corporate limits of the City, the developer shall connect with the City water system and install all water lines, in accordance with this UDO, required to provide public water service to every lot within the development.
2. The developer shall extend water lines along the public road frontage of the tract to the periphery of the development unless otherwise approved by the Raleigh Director of Public Utilities.

#### C. Outside City Limits

1. When a development is located outside the corporate limits of the City, but water facilities are available or are made available at the boundary of the development within 1 year after approval, the developer shall connect to the City water system and install all water lines required to provide water service to every lot within the development, as required in Raleigh City Code §8-2063(b).
2. If connection is made, the developer shall extend water lines along the public road frontage of the tract to the periphery of the development unless otherwise approved by the Raleigh Director of Public Utilities.

#### D. Construction Inside a CM District or Protective Yard

1. Water lines that traverse a CM District or a protective yard for a distance of at least 50 feet or more shall be built with a bend to prevent direct sight view through the district or yard provided that such bend does not exceed a 90-degree angle.
2. The requirement of a bend within a CM District or a protective yard may be

waived or modified by the Raleigh Director of Public Utilities where the CM District or a protective yard fails to contain a vegetative screen.

#### E. Community Water Systems

1. Developments located outside the corporate limits of the City but within the extra-territorial jurisdictional area of Raleigh and located within the utility service area as shown on Map PU-1 of the Raleigh 2030 Comprehensive Plan that install or propose to install community sanitary sewer systems must install the system in accordance with the City design, materials and construction standards and methods.
2. The design, materials and construction standards and methods are subject to the same regulations as if the community water system was connected to the City of Raleigh water system.
3. If the conditions of N.C. Gen. Stat. §160A-374 are met by the City, full dedication of a community water system, including all wells, pumps and utility lines, is required.

### Sec. 8.7.2. Sewage Disposal

#### A. Within City Limits

1. When a development is located within the corporate limits of the City, the developer shall connect to the City sewer system of the City in accordance with this UDO and install all sewer lines required to provide sewer service to every lot within the development.
2. The developer shall extend sewer lines to the periphery of the development as required by the Public Utilities Director.

#### B. Outside City Limits

1. When a development is located outside the corporate limits of the City, but sewer facilities are available or are made available at the boundary of the development within 1 year after approval, the developer shall connect to the City sewer system and install all sewer lines required to provide sewer service to every lot within the development, unless:
  - a. Grades are such that the sewer facilities would not be of service to the development; or
  - b. There is insufficient off-site sewer capacity to serve the development.

2. If a connection is made, the developer shall extend sewer lines to the periphery of the development unless otherwise approved by the Raleigh Director of Public Utilities.

### C. Crossing a CM District or Protective Yard

1. Sewer lines that traverse a CM District or a protective yard for a distance of at least 50 feet or more shall be built with a bend to prevent direct sight view through the district or protective yard provided that such bend does not exceed a 90-degree angle.
2. All sewer lines 12 inches or less within a CM District or a protective yard shall be constructed of ductile iron.
3. The requirement of a bend within a CM District or a protective yard may be waived or modified by the Raleigh Director of Public Utilities where the gradient will not permit gravity flow or where the CM District or a protective yard fails to contain a vegetative screen.

### D. Community Sewer System

1. Development located outside the corporate limits of the City but within the extra-territorial jurisdictional area of Raleigh and located within the utility service area as shown on Map PU-1 of the Raleigh 2030 Comprehensive Plan, developers that install or propose to install community sanitary sewer system must install the system in accordance with the City design, materials and construction standards and methods.
2. The design, materials and construction standards and methods are subject to the same regulations as if the community sewer system was connected to the system of the City of Raleigh.

## Sec. 8.7.3. Public Water and Sewer Stubs

- A. In a residential development or subdivision located in a Residential District, the developer shall extend water and sewer service stubs to the property line on each side of the development where the locations of the service stub connections are known before the streets are paved.
- B. If curbs are installed, the location of service stubs shall be stamped on the curbs.
- C. In all other developments, the responsibility for making and paying for water and sewer service stub extensions shall be borne by the owner of the property to be served by the extension.
- D. Extensions shall be made according to City standards and specifications.

## Sec. 8.7.4. Underground Utilities

### A. Extension of Utility Systems

Electrical and telephone service shall be extended by the developer to each lot within a development.

### B. Primary Services

All new primary electrical, telephone, fiber optic and cable distribution lines installed to serve a project shall be placed underground within the entire development to serve each parcel or building, without expense to the City.

### C. Secondary Services

1. Within the development, all new secondary utilities installed to serve the project shall be placed underground without expense to the City.
2. Secondary utilities shall be underground from the point they enter the site and shall include but not be limited to pad mounted or subterranean transformers, secondary electrical, telephone, fiber optic and cable distribution lines.
3. Underground secondary electrical services shall originate from a ground mounted or subterranean electrical transformer. Ground mounted transformers shall not be located in the public right-of-way.

### D. Street Lights

1. When installing underground electrical and telephone service, underground terminal facilities for street lighting shall be installed along public streets. All street light designs must follow the Standards for Roadway Illumination as established by the Illuminating Engineering Society of North America.
2. The average maintained footcandle level for outlying and rural roads as defined by Illuminating Engineering Society of North America shall be no less than  $\frac{3}{10}$  and the uniformity ratio shall be no greater than 64.
3. The City will not take responsibility for any street lighting system until it meets the above standards.

**E. Inside a CM District or Protective Yard**

1. Underground utilities that traverse a CM District or a protective yard for a distance of at least 50 feet or more shall be built with a bend to prevent direct sight view through the district or yard provided that such a bend does not exceed a 90-degree angle.
2. The requirement of a bend may be waived or modified by the Raleigh Director of Public Utilities where the gradient will not permit gravity flow or where the CM District or protective yard fails to contain a vegetative screen.
3. In tree conservation areas adjacent to the street that are zoned -MPOD, CM or -SHOD, or contain a Parkway Frontage, utilities serving the development shall be located within driveways and other authorized incursions of the tree protected area.

## Article 8.8. Surface Water Drainage

### Sec. 8.8.1. Connection to Sanitary Sewer Prohibited

No surface water drainage shall empty into a sanitary sewer.

### Sec. 8.8.2. Piping of Watercourses

- A. This section applies to all storm drainage piping of watercourses except those crossing public or private streets.
- B. All natural watercourses shall remain open and unaltered unless piping, enclosing or altering is requested and justified by the developer or required by the Public Works Director, but then only when the following conditions are met:
  1. The developer must connect the development pipe system to an existing public or private pipe storm drainage system when such system is determined by the Public Works Director to be reasonably accessible;
  2. The developer must do all grading and provide all structures necessary to properly connect to the existing storm drainage system;
  3. All design and construction must be to City standards;
  4. Pipes and open channels must be designed in accordance with the Stormwater Control and Watercourse Manual;
  5. Storm drains and culverts used in conjunction with streets must meet the standards of Sec. 9.3.6. and Sec. 9.3.7.;
  6. To preserve the screening function of CM Districts and protective yards, pipes which traverse any CM District or protective yard for a distance of at least 50 feet or more shall be built with a bend to prevent direct sight view through the yard provided that the bend must not exceed a 90-degree angle. The requirement of a bend within a CM District or a protective yard may be waived or modified waived or modified by the City Council where the gradient will not permit gravity flow or where the CM District or a protective yard fails to contain a vegetative screen;
  7. Where natural drainage systems are used or where an approved pipe drainage system cannot be connected to an existing public pipe drainage system, a developer must do all grading to assure positive flow of stormwaters of the design storm and provide all drainage structures that are necessary to properly carry stormwater to locations which are acceptable to the Public Works Director;

8. The watercourse is located outside natural resource buffer yards of a -FWPOD, -SWPOD, UWPOD, -MPOD or CM District and outside riparian water surface buffers unless a variance is granted; and
9. The watercourse buffer standards of Sec. 9.2.3., whenever applicable, are met.

### Sec. 8.8.3. Stormwater Control Plans

- A. For all subdivisions subject to Article 9.2. Stormwater Management through Article 9.5. Watershed Protection Areas, a stormwater control plan must be submitted and approved as part of the preliminary plan.
- B. This requirement may not apply to a subdivision where all proposed lots exceed 1 acre in size.
- C. If all lots exceed 1 acre in size, a stormwater control plan must be submitted for the streets, utilities and storm drainage areas for the entire subdivision, but no stormwater control plan is required to be submitted for each lot within the subdivision.
- D. A stormwater control plan must be approved for each individual lot within a subdivision at the time any permit is requested.

## Article 8.9. Facility Fees

### Sec. 8.9.1. Facility Fees Imposed on New Construction

- A. No person shall make any improvement until all applicable thoroughfare or open space facility fees have been paid in full.
- B. No building permit or other City permit for those improvements not requiring a building permit, shall be issued for any activity requiring the payment of a facility fee until the required facility fees have been paid in full.
- C. Current facility fees are listed in the Development Fee Schedule, kept on file by the Planning and Development Officer and are updated and adopted by the City Council.

### Sec. 8.9.2. Facility Fee Exceptions

Facility fees shall not be imposed in the following circumstances.

- A. Governmental authorities that are exempted by law from paying the fees.
- B. Alterations, repairs, renovations or expansion of a residential building where no additional residential units are created and use, as shown within the fee schedule, is not changed.
- C. Replacement of a building or structure or manufactured home with a new building or structure or manufactured home of the same dwelling type or non-residential use. Nonresidential alterations, repairs, renovations or replacement buildings or structures must be of the same size and use as the original building or structure and must meet the same parking, acreage, bed or other fee basis requirements. If the alterations or replacement change of use or alteration or expansion payment rule in *Sec. 8.9.3.A.* or *Sec. 8.9.3.B.* shall apply. No facility fee credit will be given under this section or under *Sec. 8.9.3.A.* or *Sec. 8.9.3.B.* unless the structure for which the credit is sought was standing at some time in the 6 year period immediately preceding the date on which the facility fee for the new project is calculated.
- D. The construction of walls, fences, monuments, billboards, poles, pipelines antennas, transmission lines, advertising signs, unmanned utility stations or substations, wells, water towers, off-street parking decks, parking garages or parking lots as the primary use on the lot or similar structures and improvements.
- E. Accessory uses listed in *Sec. 6.7.3.*

- F. Incidental water sports, play courts, play fields provided that there is no solicitation of off-site traffic or business, there is no separate charge or membership fee associated with the use of such facilities and no special use permit is required.
- G. Temporary structures or uses.
- H. Croplands or pasturelands and incidental sheds and barns. But processing facilities and residences shall pay their respective industrial and residential facility fees.

### Sec. 8.9.3. Computation of Fees

The Planning and Development Officer shall compute and collect all facility fees.

#### A. Alterations, Expansions or Redevelopment

In the case of an alteration, expansion, renovation or redevelopment of an existing development, facility fees shall be levied based upon the net increase, if any, above that which the existing development would pay.

#### B. Change of Use or the Addition of Other Uses

1. In the case of a change of use, which increases the fee rate or total fee above that which the existing use would pay, facility fees shall be paid based upon the net increase in the fee for the new use as compared to the previous use.
2. There shall be no reimbursement of any facility fee due to a change of use which has a lower fee than the current use, nor shall there be any reimbursement if a use is terminated.

#### C. Change of Use Status from Illegal to Legal

In the case of a use that was previously illegal under the Raleigh City Code being made legal other than by terminating the use, the use shall be liable for the payment of a facility fee equal to the fee that would be paid if the use were a new use.

#### D. Mixed Use

In the case of mixed use developments or multiple tenants or unit owners each separate occupancy of tenant space shall be charged a fee based on the prevailing use or function of that space.

### E. Shell/Foundation Permits

1. In the case of a “shell or foundation” permit, the facility fee amounts shall be based on the use or uses used to determine the amount of required off-street parking or as shown on the building permit when no off-street parking is required.
2. If it is found during review of the “fit-up” permit that the uses differ from these uses for the shell, a determination shall be made as to whether or not an additional fee or refund is due. If any additional fee is due, it shall be paid prior to the issuance of the fit-up permit.

### F. Size of Retail Establishments

In the case of retail uses which share common drives or parking areas and which are eligible shared parking requirements, all such retail uses, including those located on separate outparcels, shall pay a thoroughfare facility fee based on the appropriate square footage range of all the retail uses located within the development even if this is a greater fee than for any single retail use or other combinations of retail uses.

### G. Unscheduled Activity

1. If the type of new construction activity is not specified on the thoroughfare fee schedule, the Planning and Development Officer shall use the thoroughfare fee applicable to the most nearly comparable type of land use on the thoroughfare fee schedule.
2. If the applicant disagrees with the determination of the Planning and Development Officer, then the applicant shall use the alternate thoroughfare facility fee calculation, except that the cost per trip end factor shall be the same referred to in the alternative thoroughfare fee calculation schedule.

## Sec. 8.9.4. Funds Collected

### A. Creation of Trust Funds

1. The facility fees collected by the City shall be kept separate from other revenue of the City.
2. There shall be 1 trust fund established for each of the benefit areas, shown on maps labeled “Thoroughfare and Collector Street Benefit Areas” and

“Open Space Benefit Areas,” respectively; copies are on file with the City Clerk and are made a part of this UDO.

3. All facility funds collected shall be properly identified by the appropriate benefit area and transferred for deposit in the appropriate trust account.
4. A portion of these funds shall be allocated and assigned to a separate account for each benefit area for the purpose of providing funds for reimbursements required per *Sec. 8.9.1.* and *Sec. 8.9.3.*
5. These funds shall be allocated into the appropriate reimbursement accounts as follows:
  - a. Thoroughfare and collector street fees as defined in this UDO:
    - i. Benefit Zone 1: 50% of the funds collected.
    - ii. Benefit Zone 2: 27% of the funds collected.
    - iii. Benefit Zone 3: 27% of the funds collected
  - b. Open space fees: All Benefit Zones: 20% of the funds collected.
6. Funds may be transferred from reimbursement accounts to project accounts for each benefit area at the end of each fiscal year, to the extent that the account balance in each benefit area exceeds the contractual reimbursement obligations for the area.

### B. Limitation on Expenditure of Funds Collected

1. Funds expended from facility fee trust accounts shall be made for no other purpose than for thoroughfare and collector street capital costs or open space capital costs associated with projects undertaken by the City or by the City in conjunction with other units of government.
2. No funds shall be used for periodic or routine maintenance or for administration of the facility fee program.
3. Expenditures from the trust fund shall be matched by an equal sum of money approved from non-fee sources and shall be spent for projects located in the same zone in which the fees were collected.
4. All funds shall be used exclusively for capital improvements within the benefit area from which the funds were collected.
5. A report of the collection activity from application of facility fees shall be made to City Council and once every 2 years.

6. The report shall show where fees have been collected and what projects have been constructed or reimbursed with fee monies.
7. The City Council shall review this report and consider whether within each benefit area fees are being spent so that no area of new construction is not being benefited by the fees.
8. If the City Council determines that areas of new construction within benefit areas are not being benefited, then it shall readjust capital improvements program to correct this condition.
9. Funds shall be expended in the order in which they were collected. But in no event shall funds not be expended within 6 years after their collection except when the City, in conjunction with any other unit of government, provides the facility; in such cases, the funds must be expended within 10 years after their collection.

#### C. Disbursal of Funds

Funds withdrawn from these trust accounts must be used solely in accordance with the provisions of this UDO. The disbursal of funds require the approval of the City Council upon recommendation of the City Manager.

#### D. Interest on Funds

1. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in N.C. Gen. Stat. §159-30 for other public monies.
2. All income derived shall be deposited in the applicable trust account.

#### E. Return of Fees

1. If the development for which the fees were paid was never begun or if begun, the property is restored to an undeveloped state, a reimbursement will be allowed within 7 months following the issuance of a building permit provided such permit is surrendered to the City or within 7 months following the payment of the facility fee in the case when no building permit is required.
2. Any funds not expended within the time limits established in *Sec. 8.9.4.B.9.* above shall be returned to the feepayor or the landowner if the address of the feepayor provided to the City is not current with interest at the rate of 6% per annum.

3. A refund of permit fees is allowed for shell permits if it is determined during review of the "fit-up" permits, the uses have changed to a use with a lower fee then a refund is owed.

#### Sec. 8.9.5. Penalties

- A. In addition to any other remedy allowed by N.C. Gen. Stat. §160A-175, the failure to pay a facility fee is a civil penalty.
- B. The amount of the penalty shall equal the amount of the unpaid facility fee, plus an interest charge of ½% per month compounded monthly and a service charge of \$100.
- C. The City may assess the penalty against the developer or the landowner where new construction has occurred without payment of a facility fee; but no service charge will be assessed when City staff has made an error in the fee calculations.
- D. No penalty shall be assessed until the person or persons alleged to be in violation are served by registered mail, certified mail—return receipt requested or personal service with notice to pay.
- E. The City Attorney is authorized to institute a civil action in the name of the City, in the appropriate division of the general court of justice in Wake County for recovery of the penalty.
- F. All monies recovered shall be deposited in the appropriate trust fund.

## Article 8.10. Enforcement

### Sec. 8.10.1. Violations and Violators

Each of the following are declared to be violations of the Raleigh City Code.

- A. It shall be unlawful for any person to design, construct or open, any street, drainage structure or utility line unless and until such street, drainage structure or utility line shall be platted, laid out, graded and improved in accordance with the provisions of this UDO, plans approved under this UDO and conditions of approval.
- B. Any owner, tenant, architect, attorney, contractor, designer, engineer, lender, real estate broker, surveyor, agent or any other person who acts in concert, participates, directs or assists in the creation or continuation of a violation of this Chapter, any regulation, rule, order or condition of approval adopted pursuant to this Chapter, or contrary to any plan approved under this UDO are each declared to be violators of the Raleigh City Code.
- C. It shall be unlawful for any person to record a plat without the approval of the City, to make any change to an approved plat or to record a document beyond its expiration date for recording without the specific written consent of the Planning and Development Officer. The Clerk of the Superior Court of Wake County shall not order or direct the recording of a plat where such recording would be in conflict with this Chapter.
- D. It shall be unlawful for any person to subdivide real property by deed, will, security instrument, partition or by map, contrary to this Chapter, any rule, regulation, order, condition of approval adopted pursuant to this Chapter, or any plan approved under this UDO.
- E. It shall be unlawful for any person to fail, neglect or refuse to make any dedication as required by this UDO, any rule, regulation, order or condition of approval adopted pursuant to this UDO or any plan approved under this UDO.
- F. It shall be unlawful for any person to own, manage, lease or occupy real property, the subdividing of which is an unlawful subdivision by virtue of this UDO, when such person knows or has reasonable grounds to believe that the property was subdivided contrary to this UDO, any regulation, rule, order or condition of adopted approval or contrary to any plan approved under this UDO. The enumeration of these declared violations shall not be deemed exclusive or all-inclusive. All persons who shall commit violations shall be held responsible

and shall be subject to the penalties and remedies provided in *Sec. 1.1.10.* and *Sec. 8.10.2.* Each day's continuing violation shall be a separate and distinct violation or offense.

### Sec. 8.10.2. Remedies and Penalties

Enforcement may be by any one or more of the following provisions and the institution of any action under any of these provisions shall not relieve any person from any other civil or criminal proceeding prescribed for violations and prohibitions.

#### A. Unauthorized Streets Closed

The Public Works Director is authorized and directed to take necessary action to cause to be closed any street opened and constructed in violation of this Chapter.

#### B. Water and Sewer Service Not Provided to Violating Property

No water or sewer service shall be furnished by the City to any lot, owner or occupant of any land abutting upon any street or connected to a City public utility which is opened, not opened, laid out or constructed contrary to any plan approved under this UDO or in violation of this Chapter.

#### C. Construction Permits Withheld

1. Planning and Development shall not issue any construction permit for any proposed structure upon any land abutting upon any street which is opened, not opened, laid out or constructed contrary to any plan approved under this UDO or in violation of this Chapter and written policies which are approved by the City Council and filed with the City Clerk.
2. The filing or recording of a deed, a will, a security interest, a plat of a subdivision, other division or land or recombination contrary to this Chapter shall not be recognized by the City. All administrative actions relating to such land, including the issuance of any grading, construction, building or occupancy permit will be suspended. To properly enforce the provisions of this Chapter, prior to the beginning of any construction, grading, reconstruction, use or alteration of any land, building or structure, Planning and Development shall first determine that the requirements of this Chapter are met.

#### D. Assessment of 100% Cost of Incomplete Improvements

1. In the event the developer either fails to install any improvement required under this UDO or under a plan approved under this UDO or makes an installation contrary to this UDO or plan approved under this UDO, the City may assess 100% of the costs of the incomplete improvements required to some or all of the owners of the property within the subdivision or development and make the required installations.
2. Assessments must follow the procedures of N.C. Gen. Stat. Chapter 160A, Article 10 or other statutory authorization where the City may do the work and assess the costs to the landowners inside and outside the corporate limits of the City.
3. When deciding which lots to assess, the City Council shall consider, among other things, the extent to which the lots are benefitted by the assessment project, the extent to which the lots may have paid for the improvement and the extent the improvements were installed by the developer.

#### E. Forfeiture of Reimbursements

Failure by the developer to comply with all requirements of the regulations in this Chapter shall result in forfeiture of any and all reimbursements of *Article 8.6. Reimbursements*

#### F. Civil Penalty

##### 1. General

- a. Any act constituting a violation of this Chapter shall subject the offender to a civil penalty to be recovered by the City in a civil action in the nature of a debt.
- b. All violations shall be subject to a civil penalty in the amount of \$50 per day of continuous violation. In addition, the City Manager may authorize a civil penalty of up to \$250 per day if it is determined that this larger penalty will contribute toward correction of the violation.

##### 2. Citation Contents

- a. No civil penalty shall be assessed until the person alleged to be in violation is served by either registered mail, certified mail-return receipt

requested, personal service notice or other means reasonably calculated to give actual notice.

- b. The notice shall set forth in detail a description of the violation for which the penalty has been invoked.
- c. The notice shall also set forth the measures needed to come in compliance and shall state the time within such measures must be completed.
- d. The notice shall state that failure to correct the violation within the specified time will result in the assessment of a civil penalty and other enforcement action.
- e. If, after the allotted time period has expired, corrective action has not been completed, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation against those persons who have the ability to correct this violation and fail to do so.

#### 3. Collection

- a. The City Manager is authorized to accept payment in full and final settlement of the claim or claims right or rights of action which the City may have to enforce such penalty by civil action in the nature of debt. Acceptance of a penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations, only if the activities or non-activities which gave rise to the violations are abated or otherwise made lawful.
- b. If the payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City in the appropriate division of the General Court of Justice in Wake County for recovery of the penalty.

*PAGE INTENTIONALLY LEFT BLANK*

# CHAPTER 9. NATURAL RESOURCE PROTECTION

## Article 9.1. Tree Conservation 9 – 2

Sec. 9.1.1. Intent ..... 9 – 2

Sec. 9.1.2. Applicability ..... 9 – 2

Sec. 9.1.3. Tree Conservation Required ..... 9 – 2

Sec. 9.1.4. Tree Conservation Area Allocation ..... 9 – 2

Sec. 9.1.5. Documentation of Tree Conservation Areas ..... 9 – 5

Sec. 9.1.6. Permitted Tree Disturbing Activities ..... 9 – 6

Sec. 9.1.7. Penalties ..... 9 – 7

Sec. 9.1.8. Restoration ..... 9 – 7

Sec. 9.1.9. Watershed Protection Overlay Districts ..... 9 – 8

Sec. 9.1.10. Lots Without Recorded Tree Conservation Areas ..... 9 – 8

## Article 9.2. Stormwater Management 9 – 10

Sec. 9.2.1. General Provisions ..... 9 – 10

Sec. 9.2.2. Active Stormwater Control Measures ..... 9 – 10

Sec. 9.2.3. Watercourse Buffers ..... 9 – 19

Sec. 9.2.4. Inspections ..... 9 – 22

Sec. 9.2.5. Enforcement ..... 9 – 22

## Article 9.3. Floodprone Area Regulations 9 – 25

Sec. 9.3.1. Floodprone Areas ..... 9 – 25

Sec. 9.3.2. Flood Hazard Soils ..... 9 – 25

Sec. 9.3.3. Rules for Interpretation of Boundaries ..... 9 – 25

Sec. 9.3.4. Floodway and Non-Encroachment Areas ..... 9 – 26

Sec. 9.3.5. Floodway Fringe and Future Hazard Areas ..... 9 – 27

Sec. 9.3.6. Street Crossings Watercourses ..... 9 – 29

Sec. 9.3.7. Streets in Floodprone Areas ..... 9 – 30

Sec. 9.3.8. Warning & Disclaimer of Liability ..... 9 – 30

Sec. 9.3.9. Penalties ..... 9 – 31

## Article 9.4. Erosion & Sedimentation Control 9 – 32

Sec. 9.4.1. Applicability ..... 9 – 32

Sec. 9.4.2. Guidelines Incorporated ..... 9 – 32

Sec. 9.4.3. Objectives ..... 9 – 32

Sec. 9.4.4. Standards for Land-Disturbing Activity ..... 9 – 33

Sec. 9.4.5. Maintenance ..... 9 – 37

Sec. 9.4.6. Land Disturbing Activity Permit & Control Plans Required ..... 9 – 37

Sec. 9.4.7. Additional Measures ..... 9 – 38

Sec. 9.4.8. Appeals ..... 9 – 38

Sec. 9.4.9. Compliance with Plan Requirements ..... 9 – 38

Sec. 9.4.10. Inspections ..... 9 – 39

Sec. 9.4.11. Enforcement ..... 9 – 39

Sec. 9.4.12. Revisions ..... 9 – 41

## Article 9.5. Watershed Protection Areas 9 – 42

Sec. 9.5.1. Urban Watershed Protection Overlay District (-UWPOD) ..... 9 – 42

Sec. 9.5.2. Falls Watershed Protection Overlay District (-FWPOD) ..... 9 – 44

Sec. 9.5.3. Swift Creek Watershed Protection Overlay District (-SWPOD) ..... 9 – 47

Sec. 9.5.4. Inspections ..... 9 – 50

Sec. 9.5.5. Enforcement ..... 9 – 50

## Article 9.1. Tree Conservation

### Sec. 9.1.1. Intent

The intent of the tree conservation regulations is to preserve tree coverage, mature trees and natural resource buffers, and lessen the impact of development on the surrounding properties. The most significant trees, greater basal area tree stands and healthy trees in the most appropriate locations, should be considered when granting an alternate.

### Sec. 9.1.2. Applicability

Prior to approval of any subdivision of any tract 2 acres or greater in size or site plan for a parcel 2 acres or greater, tree conservation areas must be provided in accordance with the requirements of this UDO, provided that delineation of tree conservation areas for a site subject to either condemnation or the threat of condemnation shall be delayed until a site plan or further subdivision of the parcel first occurs.

### Sec. 9.1.3. Tree Conservation Required

#### A. Tree Conservation

1. Tree conservation area requirements by district are set forth below. The eligibility for tree conservation is based on the gross site area. The amount of conservation area required is calculated as a percentage of the net site area.

District	Conservation Area Required (min)
R-1, R-2	15%
All other districts	10%

2. Any eligible tree conservation priority in conflict with a build-to requirement is not required to be protected.

### Sec. 9.1.4. Tree Conservation Area Allocation

#### A. Primary Tree Conservation Areas

The following are primary tree conservation areas and must be the first areas saved to meet the tree conservation requirement. All primary tree conservation areas on the site must be established even if doing so exceeds the minimum required percentage.

1. -SHOD-1 and -SHOD-2 protective yards (see *Sec. 5.3.1.*).
2. Parkway Frontage protective yards (see *Sec. 3.4.3.*)
3. CM primary tree conservation areas (see *Article 4.2. Conservation Management (CM)*).
4. -MPOD protective yards (see *Sec. 5.2.2.*).
5. A healthy, champion tree and its critical root zone.
6. Zone 2 of Neuse River Riparian Buffers, as established in title 15A of the North Carolina Administrative Code Subarticle 2B Section .0233.
7. Areas with a gradient of 45% or greater that are adjacent to or within floodways.
8. An undisturbed area adjoining a Thoroughfare varying in width between 0 and 100 feet; provided that the total undisturbed area is equal to an area measured 50 feet perpendicular to the Thoroughfare.

#### B. Secondary Tree Conservation Areas

1. The following secondary tree conservation areas, listed in priority order from highest to lowest, must be included once the primary tree conservation areas are exhausted.
  - a. A minimum 65-foot wide perimeter buffer when the adjoining or adjacent property is not a Thoroughfare or is not vacant.
  - b. A minimum 32-foot wide perimeter buffer when the adjoining or adjacent property is vacant.
  - c. The critical root zone of any tree 10 inches or greater in DBH that is located within 50 feet of a Thoroughfare or within 65 feet of any non-vacant property boundary or roadway that is not a Thoroughfare.
  - d. The critical root zone of any tree 10 inches or greater in DBH that is located within 32 feet of a vacant property boundary.
2. Secondary tree conservation areas described in h. through *Sec. 9.1.4.B.1.b.* above must be at least 32 feet in all directions and be a minimum of 4,000 square feet in area, excluding external boundaries.
3. The critical root zone of a saved tree in *Sec. 9.1.4.B.1.c.* or *Sec. 9.1.4.B.1.d.* above must be preserved in entirety even if it extends beyond 65 feet or 32 feet. When a landscape easement is obtained from the adjoining land that prohibits all tree disturbing activity, off-site areas for protected critical root

zones may be included as tree conservation areas provided that such areas are not under any circumstances to be counted as tree conservation area on both properties.

4. As an alternative to *Sec. 9.1.4.B.1.a.* and *Sec. 9.1.4.B.1.b.* above, secondary tree conservation areas of undisturbed areas are allowed elsewhere on the site provided that the square footage of the substituted areas is at least 4,000 square feet. No portion of Zone 1 of Neuse River Riparian Buffers as established in Title 15A of the North Carolina Administrative Code, Subarticle 2B Section .0233, shall be designated an alternate undisturbed area.
5. As an alternate means of compliance with *Sec. 9.1.4.B.1.c.* or *Sec. 9.1.4.B.1.d.* above, secondary tree conservation areas of individual trees 10 inches or greater in DBH and their critical root zones are allowed anywhere on the site that is not otherwise tree conservation area provided that the critical root zone area in the alternate locations is not less than the critical root zone area that would have been required for priorities in *Sec. 9.1.4.B.1.c.* or *Sec. 9.1.4.B.1.d.* above and that no alternate saved tree is less than 10 inches in DBH.

### C. Excluded Areas

Tree conservation areas must exclude the following.

1. Sight triangles.
2. Slope easements.
3. Drainage easements.
4. Cross access easements.
5. Governmental and utility easements that prohibit trees.
6. Any easement that authorizes tree disturbing activities.
7. Any area devoted or to be devoted to streets, future right-of-way reservation, sidewalks, driveways, walkways, storm drainage facilities, including without limitation, pipes, energy dissipaters and stormwater control measures which require the removal of vegetation.
8. Water-related activity areas located in, over, under or adjacent to a lake or natural watercourse shown on the site plan may not be included as Zone 2 areas of Neuse River Riparian Buffers.

9. Any tree 10 inches DBH and larger that has 30% or more of its critical root zone traversed in part or in entirety by any of the excluded areas in *Sec. 9.1.4.C.1.* through *Sec. 9.1.4.C.7.* above, by impervious surface or by any adjacent property.

### D. General Conservation Area Requirements

#### 1. Size

The minimum dimension of a primary tree conservation area is 20 feet, measured in all directions.

#### 2. Greenways

- a. City of Raleigh greenways may be included as tree conservation areas, provided that an area of 25 feet multiplied by the length of the greenway is excluded as tree conservation for trail construction.
- b. Greenways can only be established as tree conservation areas after establishment of primary tree conservation areas.

#### 3. Tree Quality

No tree may be used to meet the requirements of this Article if it is unhealthy or a hazardous tree.

#### 4. Heritage Trees

A heritage tree and its critical root zone may be established as an optional tree conservation area after establishment of primary tree conservation areas. The area of critical root zone for a heritage tree conservation area shall be double credited toward the tree conservation requirement only when all of the following conditions are met.

- a. The critical root zone shall be protected in entirety by, either being entirely on the developing property or the property owner shall obtain a landscape easement that prohibits all tree disturbing activity for the portion of the critical root zone on an adjacent property. The off-site area for protected critical root zone may be included as tree conservation area provided that such area shall not under any circumstances be counted as tree conservation area on both properties.
- b. Any portion of the critical root zone within another tree conservation area shall not be eligible for double credit.

- c. The condition of the heritage tree shall be a rating of "Good" or higher as determined by an arborist certified by the International Society of Arboriculture using the Guide for Plant Appraisal, latest edition, published by the International Society of Arboriculture and verified by the Planning and Development Officer.
- d. A report of the tree condition shall be prepared on an evaluation form provided by the City and it shall be provided to the Planning and Development Officer.
- e. An active tree preservation plan prepared by an arborist, certified by the International Society of Arboriculture, must be approved by the Planning and Development Officer and implemented by the developer under the supervision of the certified arborist.

#### E. Tree Cover Required

1. Tree conservation areas proposed for -SHOD-1, -SHOD-2, Parkway Frontage, and undisturbed areas adjoining a Major or Minor Thoroughfare protective yard (Sec. 9.1.4.A.1., Sec. 9.1.4.A.2. and Sec. 9.1.4.A.8.) and secondary priority areas (Sec. 9.1.4.B.1.a. and Sec. 9.1.4.B.1.b.) and their alternates, must contain a basal area of at least 30 square feet per acre as measured in increments of 50 lineal feet.
2. Any required protective yard for a -SHOD 1, -SHOD-2 or Parkway Frontage that does not contain a basal area of at least 30 square feet shall be planted in accordance with the overlay district landscaping standards and portions of the protective yard cannot be established as a tree conservation area.
3. For those developments that fulfill any of their tree conservation area requirement using a -SHOD-1, -SHOD-2, Parkway Frontage or undisturbed areas adjoining a Major or Minor Thoroughfare protective yard or with secondary tree conservation areas from Sec. 9.1.4.B.1.a. or Sec. 9.1.4.B.1.b. and their alternates, the following must be submitted:
  - a. Photo panoramic panels of the intended area to be conserved. The photo panel shall equal 50 feet of the length of the tree conservation area to be saved;
  - b. A tree cover report prepared by a North Carolina registered forester or North Carolina licensed landscape architect or Certified Arborist that, inventories each 50-foot length of proposed tree conservation area, to identify all eligible trees 3 inches DBH and larger, by species, DBH, with

basal area calculations and a determination of the general health of the tree stand; and

- c. The most recent aerial photograph of the subject tract.
4. A survey of all eligible trees and computation of basal area may be substituted in lieu of Sec. 9.1.4.E.3.a. and Sec. 9.1.4.E.3.c. above, provided that no dead, unhealthy or hazardous tree is included in the survey.
5. An optional method to determine basal area for tree conservation areas is allowed when a North Carolina registered forester certifies in writing that the basal area is 60 square feet per acre or greater, provided all the following conditions are met:
  - a. The contiguous tree conservation area that can consist of primary and secondary is at least 8,700 square feet in size, excluding easements and consists of undisturbed wooded areas with a basal area of 60 square feet per acre or greater comprised of trees 3 inches DBH and larger;
  - b. All dimensions of tree conservation areas are at least 65 feet in all directions;
  - c. Land area that does not contain trees must be excluded unless it contains critical root zones of trees being preserved;
  - d. Any area of tree disturbing activity is excluded as a tree conservation area; and
  - e. A legible copy of the latest Wake County/City of Raleigh aerial photograph must be included with the registered forester's certification.
6. Within each 50-foot linear increment of Zone 2 of Neuse River Riparian Buffers, MPOD natural resource buffer yards or greenway tree conservation areas that do not contain trees, a minimum of 2 shade trees to enhance the riparian buffer must be planted prior to issuance of a certificate of occupancy. Planted shade trees must be at least 10 gallon container size and free of circling roots at time of planting. If the area without trees will be used as shown on the approved site plan for either a tree disturbing activity allowed by Sec. 9.1.6. or a water-related activity located in, over, under or adjacent a lake or natural watercourse, no planting of new trees shall be required.

7. Within each 50 linear feet of watercourse buffer of the -MPOD that does not contain trees, a minimum of two 10 gallon container size shade trees, free of circling roots, must be planted to enhance the riparian buffer prior to the issuance of a certificate of occupancy.
8. Alternatively, areas that do not contain trees in Neuse Zone 2, greenways or -MPOD watercourse buffers may be established as permanently undisturbed primary tree conservation areas to allow natural regeneration of trees, provided such areas are not located on individual lots developed for single-unit living. Permanently undisturbed primary tree conservation areas shall not be cleared of any vegetation or subjected to any tree disturbing activity and shall be delineated with signs as specified by the City. Required signs must remain in place for a period of 7 years. Unlawful disturbance of any permanently undisturbed primary tree conservation area shall subject the violator to a civil penalty of a minimum of \$1,000 plus 35 cents for every square foot of disturbed area and unlawfully disturbed areas shall be planted with twice the number of 10 gallon container shade trees as described above. Unlawful removal of any required signs shall subject the violator to a civil penalty of \$100 for each removed sign and each removed sign shall be replaced. Civil penalties shall be processed as set forth in *Sec. 10.4.2.*

## Sec. 9.1.5. Documentation of Tree Conservation Areas

### A. Tree Conservation Permit Required

1. After the tree conservation areas have been determined and prior to any tree disturbing activity, a map with metes and bounds descriptions of all tree conservation areas must be given to Planning and Development and a tree conservation permit must be obtained from the City and tree protective fencing placed on the site.
2. After the tree conservation areas have been determined and a tree conservation permit has been obtained and prior to or concurrent to any subdividing of the property and prior to issuance of a building permit, the landowners shall record with the local County Register of Deeds the following:
  - a. A plat with metes and bounds descriptions of all tree conservation areas;
  - b. An easement that allows current and future lot owners access to otherwise inaccessible tree conservation areas to perform tree maintenance activities including required replacement plantings;

- c. A homeowners' association declaration prepared in conformity with N.C. Gen. Stat., Chapter 47F for the maintenance and protection of the trees within recorded tree conservation areas; and
- d. One or more deeds conveying all tree conservation areas in fee or in easement to the homeowners' association.

### B. Neuse River Riparian

1. Metes and bounds descriptions of Neuse River Riparian Zone 2 shall include only the outer boundary of Zone 2 with a notation that the inner boundary is 20 feet parallel to the outer boundary.
2. The outer boundary of Zone 2 may optionally be surveyed as a series of tangents that shall be no more than 5 feet from the actual Zone 2 boundary.
3. When the tangent survey is used, metes and bounds descriptions of the tangent lines and the actual outer boundary of Neuse River Riparian Zone 2 (without metes and bounds) shall be shown on the recorded plat. Tree disturbing activities are prohibited and unlawful in the area between the tangent Zone 2 boundary and the actual Zone 2 boundary to the same extent as tree disturbing activities are within Zone 2 areas, but these areas shall not count toward the percentage tree conservation requirements of *Sec. 9.1.3.*, *Sec. 9.1.4.A.* and *Sec. 9.1.4.B.* as demonstrated to the Planning and Development Officer.

### C. Secondary Conservation Areas

1. Where secondary tree conservation areas (*Sec. 9.1.4.B.1.a.* and *Sec. 9.1.4.B.1.b.*) abut one another, metes and bounds descriptions shall not be required for the boundary line between abutting tree conservation areas.
2. Previously recorded tree conservation areas and greenways may be shown without metes and bounds provided that the correct Book of Maps is referenced and greenways are re-recorded as greenway tree conservation areas.

### D. Replacement by Condemnor

Whenever any condemnor acquires property through eminent domain it shall be the responsibility of the condemnor to replace, in accordance with the provisions of this UDO, those complying elements which were removed unless a less stringent standard is required.

## E. Payment In Lieu of Compliance

1. Requests for fee-in-lieu payments will be considered, but not limited to, the following cases:
  - a. Site conditions caused by man-made or natural topography that would require use of a retaining wall where the cost of wall construction would be greater than the fee-in-lieu for the area being relieved from compliance. In such cases, justification must be provided to demonstrate there are no alternate methods of construction other than use of a retaining wall. Quotes from 3 independent design firms or contractors must be provided to estimate the construction cost of the retaining wall; and
  - b. Site conditions where the existence of priority areas under *Sec. 9.1.4.B.1.c.* and *Sec. 9.1.4.B.1.d.* render a site undevelopable.
2. General conditions for all fee-in-lieu requests.
  - a. No primary tree conservation area is eligible for a fee-in-lieu payment.
  - b. Fee-in-lieu payments for tree conservation area will not be considered when the objective is to develop the site without regard for the tree conservation priorities of *Sec. 9.1.4.*
  - c. Fee-in-lieu payments for tree conservation area will not be considered when the objective is to achieve increased site visibility at the expense of tree conservation.
  - d. Prior to requesting a monetary payment in lieu of compliance, the applicant must examine alternate methods to preserve the required tree conservation priority areas. Upon submittal of a fee-in-lieu request, the applicant must provide proof of consideration of alternatives and justification why the alternatives are not feasible. The City may require that additional alternate methods be examined.
  - e. Alternative methods to preserve tree conservation areas include but are not limited to: re-design of the subdivision or site plan, use of retaining walls, alternate methods of construction (such as trex decking in place of concrete sidewalk) and arboricultural practices that include active tree preservation (such as root pruning of no more than 30% of the root zone with active tree preservation aftercare) performed under supervision of a certified arborist.

- f. Secondary tree conservation areas approved for a fee-in-lieu payment shall be paid at a rate equal to the tax value of the land.
    - g. All fee-in-lieu payments shall be adjusted on an annual basis using the percent change Dec-Dec column of the Consumer Price Index chart available through the US Department of Labor.
  3. All collected monies, including any income derived from such monies, shall be spent either for acquisition of lands where trees will be preserved or for tree planting. The City Council shall set forth specific eligible activities for tree preservation and tree plantings. All collected monies must be spent within the same open space fee zones from which the payments were collected.

## Sec. 9.1.6. Permitted Tree Disturbing Activities

No tree disturbing activity shall take place in designated tree conservation areas except in conformity with the following.

- A. Within Zone 2 of Neuse River Riparian Buffers and in watercourse buffers in a -MPOD, permitted tree disturbing activities are allowed for:
  1. Any work that is ancillary to activities allowed by the North Carolina Division of Water Quality in Zone 1 that is approved by the City;
  2. Any sanitary sewer installation when an existing permanent structure or any part of an existing permanent structure that is to remain on the site is within the width of the proposed permanent and temporary construction sanitary sewer easement plus 10 feet; and
  3. More than 50% of a reach of sanitary sewer main will be over 12 feet deep.
- B. Within primary tree conservation areas and secondary tree conservation areas tree disturbing activities are allowed when all of the following are met.
  1. A tree conservation permit is obtained from the Planning and Development Officer. Tree conservation permits may be issued for one or more of the following:
    - a. A certified arborist, registered forester or a licensed landscape architect certifies to the City in writing that the tree is either unsafe or is unhealthy. No certification is required if it can be shown that the tree died of natural causes and the dead tree is replaced in accordance with the replacement standards of this Article.

- b. Tree removal or grading is being done to remove a visual obstruction from a sight triangle as set forth in the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways Manual and all subsequent amendments.
  - c. The removal or grading is being done to install public improvements made pursuant to this UDO.
  - d. Where existing vegetation meets the minimum applicable tree conservation requirements for an applicable district or meets applicable transitional yard requirements, a tree conservation permit may be issued for wooded area clean-up of shade trees less than 2 inches DBH and understory trees less than 1 inch in DBH.
  - e. No permit for such removal may be issued until a plan is submitted showing the nature and extent of all tree work, how the work will be undertaken without compacting soils and damaging preserved trees and maintaining minimum applicable requirements.
2. When a tree conservation permit is issued in accordance with *Sec. 9.1.6.B.1.*, the property owner must install replacement trees for any tree situated within the limits of the tree disturbing activities in one of the following ways:
    - a. One or more undisturbed areas of equal size containing vegetation similar in size and quantity as that which is being removed is preserved in alternate undisturbed areas meeting the requirements of *Sec. 9.1.4.B.* through *Sec. 9.1.4.E.* for priority areas *Sec. 9.1.4.B.1.a.* and *Sec. 9.1.4.B.1.b.*
    - b. For each 200 square feet of tree disturbed land area, a 2-inch caliper tree is either planted between the principal building and the roadway or is planted in approved alternate areas of the site.
    - c. Whenever a tree of priority area under *Sec. 9.1.4.B.1.c.* and *Sec. 9.1.4.B.1.d.* is removed after being certified as a hazardous tree, unhealthy or dead; it shall be replaced with 10 caliper inches of new shade trees. Any replacement tree shall be planted within the tree conservation area previously recorded for the removed tree. The minimum size of any replacement tree shall be 2 caliper inches.
    - d. All substituted natural areas and newly planted areas must be designated as tree conservation areas on plats with metes and bounds descriptions recorded with the Wake County Register of Deeds.

3. All portions of critical root zones of trees situated inside a designated tree conservation area that adjoin proposed tree disturbing activities shall remain undisturbed areas for trees with 10 inches or greater DBH.
4. Prior to commencing any tree disturbing activity, the boundaries of such activities shall be delineated by a protective fence in the field.

### **Sec. 9.1.7. Penalties**

- A. A violation of this Article, where unlawful tree disturbing activity has occurred and trees and stumps are absent, shall subject the violator to a civil penalty of a minimum of \$1,000 for the first tree plus 35 cents of every foot of unlawful tree disturbing activity.
- B. Where trees or stumps are present after unlawful tree disturbing activity has occurred, the civil penalty shall instead be calculated as \$1,000 for the first tree plus \$100 per diameter inch for any other tree or stump 3 inches diameter and larger. Civil penalties shall be processed as set forth in *Sec. 10.4.2.*

### **Sec. 9.1.8. Restoration**

- A. In addition to the civil penalty of *Sec. 9.1.7.*, the owner of real property, where a violation has occurred, shall remove each unlawfully disturbed tree and replace with a tree or trees of equal caliper.
- B. Prior to any replanting, the Planning and Development Officer shall first approve a replacement planting and maintenance plan. Replacement trees shall be 2 inches in caliper and no replacement tree shall be located in those portions of a tree conservation area with a basal area of over 80 square feet per acre.
- C. All replacement trees shall be planted in a planting area of at least 200 square feet in area with minimum dimensions of 8 feet.
- D. If the tree conservation area where the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees can not be planted on other portions of the property, then in lieu of such replacement trees, a replacement fee equal to \$100 per caliper inch of replacement trees shall be paid to the City.

### Sec. 9.1.9. Watershed Protection Overlay Districts

- A. Except as otherwise provided below, every lot located within a -UWPOD, -FWPOD or -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area. Within this area, trees must either be preserved or planted in accordance with the following:
1. Tree areas may be 1 contiguous area or scattered areas throughout the lot, but no required tree area may be less than  $\frac{1}{5}$  of the total gross land area required to be set aside for trees;
  2. All areas required to be set aside for trees shall be maintained as wooded areas;
  3. Wooded areas may consist of either areas where active tree preservation is observed or tree planting areas;
  4. Each active tree preservation area must contain a minimum of 2 inches of tree caliper per every 100 square feet and within such areas, active tree preservation shall be followed;
  5. Areas that are set aside for trees that do not meet the standards for active tree protection areas must be planted with shade trees; and
  6. The minimum size and planting rate of new tree plantings used to fulfill this requirement shall be either 1 bare-root seedling at least 14 inches tall planted per 100 square feet (10 feet by 10 feet centers) or one 2-inch caliper tree planted per 200 square feet.
- B. After wooded areas have been determined and prior to or concurrent to any subdividing of the property or issuance of building permit, the landowner shall record with the local County Register of Deeds a plat with metes and bounds descriptions of all wooded areas.
- C. For lots located within areas designated "New Urban" by the Swift Creek Land Management Plan, the regulations of Sec. 9.1.9.A. above apply with the exception that only 25% of each lot must contain an area set aside for trees.
- D. For lots located within a conservation development, areas set aside for trees may in lieu of being situated on the individual dwelling lots may instead be located within the required open space, provided that the overall acreage set aside for trees is not diminished.

- E. The requirements of this section do not apply to lots devoted exclusively to stormwater control measures or to those lots located in those areas of the Comprehensive Plan designated for impervious surfaces in excess of 30%.

### Sec. 9.1.10. Lots Without Recorded Tree Conservation Areas

#### A. Applicability

1. Any tree disturbing activity, except a minor tree removal activity, on sites 2 acres and larger in size that do not have an established or recorded tree conservation area shall meet the requirements of this section.
2. Nothing in this section shall prevent the otherwise lawful grading and installation of streets, utilities or other improvements shown on an approved subdivision plan or site plan.
3. All applicable laws, including soil erosion and sedimentation control and tree protection regulations, must be obeyed. No champion tree, including its critical root zone, is subjected to any tree disturbing activity.

#### B. Tree Protection Plan Required

1. A tree protection plan must be approved by the Planning and Development Officer for all applicable tree protected areas.
2. Tree protection fences must be in place prior to the issuance of any City permit and prior to engaging in any tree disturbing activity.

#### C. Perimeter Buffers

1. No tree disturbing activity, except a minor tree removal activity, shall occur within a 32-foot wide perimeter buffer when the adjoining or adjacent property is vacant.
2. No tree disturbing activity, except a minor tree removal activity, shall occur within a 65-foot wide perimeter buffer when the adjacent property is a roadway other than a Thoroughfare or is not vacant.
3. No tree disturbing activity, except a minor tree removal activity, shall occur within a 50-foot wide perimeter buffer when the adjoining or adjacent property is a Thoroughfare or higher designation roadway.
4. No trees 10 inches DBH or larger can be removed, with the exception that a maximum of 5 trees between 10 inches and 22 inches DBH may be removed within the 32-foot wide buffer, the 65-foot wide buffer or 50-foot wide

Thoroughfare buffer, within a continuous 5-year period, with a permit issued by the Planning and Development Officer, provided that such tree removal would not diminish future tree conservation areas that may be required, all as shown on a report submitted to Planning and Development.

5. In lieu of protecting perimeter buffers, tree conservation areas may be designated in conjunction with an approved development plan, or an approved forest management plan, provided that all tree conservation areas are shown on recorded plats.

#### D. Forest Management Activity Allowed

1. Forest management activity is allowed in the perimeter buffers provided that the landowners first record with the local County Register of Deeds a covenant running with and binding the land stating: "That forest management operations were initiated within regulated perimeter buffers of the real property on \_\_\_\_\_ (date and year) and that pursuant to State Law, no building permit, site plan or subdivision plan will be approved by the local governing authority for a period of 5 years following harvesting completion date."
2. A copy of this covenant recorded with the local County Register of Deeds shall be provided to the to Planning and Development.
3. The allowable hours of operation any given day are between 7 AM and 8:30 PM, other than emergency work for the preservation of public health or safety.
4. Access ways through perimeter buffers shall not exceed 25 feet in width and all construction entrances of the access ways must be constructed in accordance with the latest City "Guidelines for Land-Disturbing Activities" or latest State of North Carolina "Erosion and Sediment Control Planning and Design Manual", whichever is more stringent.
5. At least 1 access way shall be permitted and additional access ways may be allowed provided such additional access ways are justified by a North Carolina registered forester and additional access ways fronting the same roadway are spaced at least 1,000 feet apart.

#### E. Violations

1. A violation of this section, where unlawful tree disturbing activity has occurred and trees and stumps are absent, shall subject the violator to a civil

penalty equal to \$1,000 for the first tree plus 35 cents of every square foot of unlawfully disturbed perimeter buffer.

2. Where trees or stumps are present after unlawful tree disturbing activity has occurred, the civil penalty shall instead be calculated as \$1,000 for the first tree plus \$100 per diameter inch for any other tree or stump 3 inches diameter and larger.
3. No civil penalty shall exceed  $\frac{1}{3}$  of the current land tax value of the entire site.
4. The penalty shall be processed as set forth in *Sec. 10.4.2*. In addition to this civil penalty, within the unlawfully disturbed perimeter buffer, the land owner shall install one 2-inch caliper tree for each 200 square feet of all of the unlawfully disturbed perimeter buffer; provided that, in R-1 and R-2 no more than 15% of the acreage of the entire tract and no more 10% of the acreage of the entire tract of all other districts shall be planted.
5. Prior to any replanting, the Planning and Development Officer shall first approve a replacement planting and maintenance plan.
6. The replanting areas shall be designated as tree conservation areas on plats with delineated metes and bounds descriptions recorded with the local County Register of Deeds, however, the replacement planting areas shall not count toward the tree conservation percentage requirements of *Sec. 9.1.3*. Following the recording of this plat, no tree disturbing activity shall take place within the designated tree conservation areas.

## Article 9.2. Stormwater Management

### Sec. 9.2.1. General Provisions

#### A. Applicability

Prior to any land disturbing activity or subdivision of land, stormwater control measures, watercourse buffers or both must be provided in conformity with the requirements of this Article.

#### B. Manual and Guidelines Incorporated

The Raleigh Stormwater Control and Watercourse Buffer Manual along with the Guidelines for Land Disturbing Activities and amendments, on file in the City Clerk's Office, is adopted by reference as part of this UDO.

### Sec. 9.2.2. Active Stormwater Control Measures

#### A. Exemptions

The following uses are exempt from the active stormwater control requirements of this section:

1. Any detached house used for single-unit living or any attached house used for two-unit living, built as part of a subdivision 1 acre or less in aggregate size;
2. Any plot plan or site plan of ½ acre or less in aggregate size that contains less than 12,000 square feet of impervious surface, including impervious surfaces of related on-site or off-site facilities;
3. Any land-disturbing activity that does not require a land-disturbing permit under Sec. 9.4.6. provided that, upon application of any impervious surfaces this exemption shall not apply;
4. Substitution of impervious surfaces when all the standards of Sec. 10.3.4. are met; and
5. Substitution of impervious surfaces with approved pervious surfaces.

#### B. Nitrogen Reduction

##### 1. Requirement

- a. Any new or expansion of existing development, not in compliance with the stormwater control master plan approved for its drainage basin, may not contribute a nitrogen export load exceeding 3.6 pounds per acre per year.

- b. Compliance with stormwater control master plan must include the installation within the development of all stormwater control measures shown on the stormwater control master plan, payment of fees in lieu of installation, when allowed by the City and payment of any applicable drainage fees.

#### 2. Payment In Lieu Option

The nitrogen export load limitations for a development may be off-set through a payment made to the North Carolina Riparian Buffer Restoration Fund or private mitigation bank. The payment shall be based on the latest fee adopted by the State and shall meet the following requirements.

##### a. In General

- i. Installation of City-approved stormwater control measures or payment in lieu option or a combination of both may be used to satisfy the nitrogen load requirement.
- ii. For subdivisions with an approved stormwater control facilities plan, all payments shall be made prior to issuance of a land disturbance permit. Where no land disturbance permit is required, fees shall be due prior to recording of the plat.
- iii. For all other developments, payments shall be paid to the North Carolina Riparian Buffer Restoration Fund prior to the issuance of applicable development permits.

##### b. Residential Development

- i. For any detached house used for single-unit living or any attached house used for two-unit living, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 6 pounds per acre per year to 3.6 pounds per acre per year.
- ii. All residential development that exceeds nitrogen export loads of 6 pounds per acre per year must install City-approved stormwater control measures to reduce the nitrogen export load of their development to 6 pounds per acre per year limitation to become eligible for the payment in lieu option.

**c. Mixed Use and Nonresidential Development**

- i. For mixed use and nonresidential development, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 10 pounds per acre per year to 3.6 pounds per acre per year.
- ii. Mixed use and nonresidential development that exceeds nitrogen export loads of 10 pounds per acre per year must install City-approved stormwater control measures to reduce the nitrogen export load of their development to 10 pounds per acre per year limitation to become eligible for the payment in lieu option.

**C. Stormwater Control Permits**

- 1. No development, expansion of existing development or the placement of more than 12,000 square feet of any impervious surface, may occur on a site without a stormwater control permit from the Office of Development Services.
- 2. No stormwater control permit may be approved until a stormwater control plan is first approved by the City in accordance with *Sec. 9.2.2.D*.
- 3. No stormwater control permit may be issued except in strict conformity with the provisions of this Article, the Raleigh Stormwater Control and Watercourse Buffer Manual.
- 4. No stormwater control permit may be issued until the boundaries of any watercourse buffer, riparian surface water buffer or transitional protective yard in a -MPOD, -UWPOD, -FWPOD or -SWPOD or CM District and permanently protected undisturbed open space areas which are adjacent to or encompass a work site are clearly and accurately demarcated by a protective fence in the field. Protection measures must be field verified by a Professional Land Surveyor.

**D. Stormwater Control Plans**

**1. General Requirements**

- a. Stormwater control plans must be prepared by a qualified registered North Carolina professional engineer, surveyor or landscape architect.

- b. All parts of a stormwater control plan, including data calculation design and installation of storm control measures and devices shall be in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual.
- c. Stormwater control plans must show how nitrogen reduction and stormwater runoff control requirements are being met and how watercourse buffers are being protected.
- d. A surety equal to 125% of the cost of construction of a stormwater device shall be paid to the City prior to permit issuance. If the amount of impervious surfaces for the bonded area exceeds 15% , the City may cash the surety.

**2. Maintenance Manual and Budget**

- a. The stormwater control plan must be accompanied by a stormwater operations maintenance manual and budget.
- b. Prior to either grading any portion of the development or submitting construction drawing plans of any applicable stormwater control facility to the City, whichever event first occurs, a stormwater operations maintenance and budget shall be submitted to the Stormwater Utility Division of the Public Works Department.
- c. The maintenance manual shall contain a narrative describing each installed measure and device and its design specifications.
- d. The maintenance manual shall describe which lots are served by each device.
- e. The maintenance manual shall indicate for each installed measure and device what operation and maintenance actions are needed and what specific quantitative criteria will be used to determine when these actions will be taken.
- f. The maintenance manual must indicate the steps that will be taken to restore a measure or device to the design specifications if a failure occurs.
- g. The maintenance manual must contain a statement about the expected life of each stormwater control facility and a replacement schedule derived by dividing the initial construction cost of each stormwater control facility by the expected life of that stormwater control facility.

- h. The budget shall include annual costs such as routine maintenance, repair, periodic sediment removal and replenishment of rip-rap, insurance premiums associated with the stormwater control facilities, taxes levied against the stormwater control facilities, mowing and reseeding, required inspections.

### 3. As-Built Plans and Certification

Stormwater control plans must be followed by as-built plans certified under seal, that the stormwater measures and devices and their installation are in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual and the City-approved or modified stormwater control plan. No certificate of compliance or occupancy may be issued by the Office of Development Services without approved as-built plans. At a minimum, the as-built plans must contain the following information:

- a. The name and address of the land owner;
- b. The recorded book and page number of the lot of each required stormwater control facility and required open space area;
- c. A statement that all inspected stormwater control facilities and open space areas are in compliance with the approved stormwater control plan, the applicable maintenance manual required and the Raleigh Stormwater Control and Watercourse Buffer Manual; and
- d. The original signature and seal of the engineer, surveyor or landscape architect.

## E. Stormwater Runoff Controls

### 1. Runoff Limitation

- a. After May 1, 2001, the peak stormwater runoff leaving any site for the two-year and 10-year storms shall be no greater at every point of discharge for post-development conditions than pre-development conditions. The same methodologies used to calculate stormwater runoff must be used for both pre-development and post-development conditions.
- b. For any denuded area on sites between 5 and 15 acres in size the peak stormwater runoff leaving the site at each discharge point for the two-year storm and 10-year storm shall be no greater during construction

than for pre-development conditions. For any land disturbing activity on sites, greater than 15 acres in size the peak stormwater runoff leaving the site at each discharge point for the two-year storm, 10-year storm and 25-year storm shall be no greater during construction than for pre-development conditions. However, this regulation shall not be applicable when the development site conforms to all of the following:

- i. The disturbed acreage is less than 5 acres; and
- ii. The two-year peak discharge for the disturbed condition, for all points of discharge, is less than 10% of the peak discharge from the contributing watershed as measured at the nearest receiving watercourse.

### 2. Exemptions

The stormwater runoff control requirements do not apply to sites with any of the following conditions.

- a. The development complies with the stormwater control master plan approved for its drainage basin.
- b. The increase in peak stormwater runoff between pre-development and post-development conditions for the two-year and 10-year and 25-year storms is 10% or less at each point of discharge.
- c. The maximum impervious surface coverage of the lot, including any existing impervious surfaces, is no more than 15% and the remaining pervious portions of the lot are utilized to convey and control the stormwater runoff of the lot to the maximum extent practical. In the event that the site is subsequently subdivided, reduced by recombination or the impervious surface is equal to or exceeds 15% the site may no longer be exempt.
- d. Compliance with *Sec. 9.2.2.E.1.* above, would result in greater adverse downstream impact, such as local flooding, as determined by City-approved engineering studies.
- e. Compliance with the 10-year storm and 25-year storm runoff limitations in *Sec. 9.2.2.E.1.* above results in no benefit to current and future downstream development, as determined by City-approved engineering studies.

### 3. Additional Runoff Controls

The City may require the installation of stormwater runoff control measures for projects without any stormwater measures present. The City reserves the right to require additional stormwater runoff control measures for projects which are compliant with Sec. 9.2.2.E.1. above, if stormwater runoff from the site could cause adverse effects on other properties including, without limitation, public streets, greenways and utility easements.

- a. As part of an application for rezoning, subdivision or site plan for sites at or upstream of documented structural flooding cases, the applicant shall submit a stormwater impact analysis to the Public Works Director.
- b. This requirement does not extend to sites initially zoned and added to the territorial coverage of as a result of annexation, extraterritorial jurisdictional expansion or otherwise or application of any overlay district.
- c. The stormwater impact analysis shall look at the flood level differences between pre-development and post-development conditions for the 25-, 50- and 100-year storm events. If the analysis shows an increase greater than 0.04 feet between pre-development and post-development flood levels at the site of structural flooding then mitigation to pre-development flood conditions will be required to prevent further damage to the affected property.
- d. In the case where the area of the subject property is less than 5% of the drainage area, measured to the location of the documented structural flooding, then this analysis shall not be required.
- e. In the event flood levels are increased, then the affected property owners will be notified in writing of any increase by the applicant.

## F. Preservation of Open Space Areas

### 1. Open Space Areas Preserved

- a. Areas designated on approved stormwater control plans as open space to be used for complying with this Article shall be preserved and protected.
- b. The only activities allowed in designated open space areas are those activities allowed by the approved stormwater control plan or allowed

in riparian surface water buffers under Title 15A North Carolina Administrative Code Article 2B, section .0233, as amended from time to time. Determinations required by the North Carolina Administrative Code shall be made by the City.

- c. No work in open space areas shall proceed without a written protected watercourse buffer permit from the Inspections Director.
- d. Permanently protected undisturbed open space areas identified on stormwater control plans shall be recorded on plats recorded with the County Register of Deeds and clearly delineated with a fence.

### 2. Exchange of Open Space Areas

Open space areas may not be subdivided or conveyed by the owner. However, nothing in this section shall prevent the mortgaging and hypothecating of open space areas; provided the mortgage applies to all portions of the tract and not just the open space areas, the mortgagee is informed that the open space areas are used for complying with the requirements of the Article and the rights of the mortgagee are subordinated to the rights of any property owner association and its members. Furthermore, nothing shall prevent the exchanging of open space areas for other properties when all of the following are met:

- a. If the open space area is owned by a homeowners' association, written notice of the exchange is given to each member of the association except in cases where the exchange is done to eliminate an encroachment;
- b. After the notice is given, if required, the owner of the open space area approves the exchange;
- c. The exchanged properties and other considerations are of like value and utility;
- d. The acreage and configuration of the remaining open space area including real property to be received in such exchange equal or exceeds the requirements of the City Code; and
- e. The exchange is approved by the Public Works Director.

## G. Maintenance of Stormwater Control Measures and Devices

### 1. General Requirements

- a. The land owner or person in possession or control of the land shall maintain all on-site stormwater control facilities and all open space areas required by the approved stormwater control plan unless those facilities and open space areas are accepted for maintenance by a governmental agency.
- b. The land owner entitled to the exclusive use of an off-site drainage easement for one or more stormwater control facilities not accepted for maintenance by a governmental agency shall maintain said stormwater control facilities.

### 2. Maintenance Covenant

For off-site stormwater control facilities and for all other stormwater control facilities which serve more than 1 lot that are not accepted for maintenance by a governmental agency, the developer shall execute and record with the local county register of deeds office a maintenance covenant, using a City form, with the following contents.

#### a. Location of Stormwater Control Facilities and Drainage Easements

- i. A description of portions of property where stormwater control facilities are located as well as a description of the location of all private drainage easements conveying stormwater to and from the development to the facilities.
- ii. A process for relocating private drainage easements, with any relocation to require the prior written consent of the City.

#### b. Easement Rights of Lot Owners

A statement that owners of properties that will be served by the stormwater control facilities are:

- a) Granted perpetual, irrevocable and non-exclusive easement rights and privileges to use, construct, install, inspect, replace, reconstruct, repair and maintain those stormwater control facilities including the right to access those stormwater control facilities, private drainage easements and other portions of the development as reasonably necessary to perform the granted easement rights; and

- b) The granting of perpetual, irrevocable and non-exclusive easement rights and privileges to transport, store and discharge stormwater to and from the stormwater control facilities.

### c. City Easement/Right of Entry/No City Responsibility

- i. A grant from the developer, the association (if any) and the lot owners to the City of a permanent non-exclusive irrevocable easement over the lots, stormwater control facilities and private drainage easements for inspection, maintenance, repair, construction, installation, re-construction, replacement and other work on, in and over the stormwater control facilities.
- ii. A grant from the developer, the association (if any) and the lot owners to the City of a permanent, irrevocable, nonexclusive right of ingress, egress and regress over and across all public or private easements on the property and through all access easements benefitting the developer, association (if any) and the lot owners through any adjacent properties, including but not limited to private roads, for inspection, maintenance, repair construction, installation, reconstruction, replacement and other work on the stormwater control facilities. The rights granted to the City shall include employees, agents and contractors of the City of Raleigh. The grant of these rights does not obligate the City to exercise them or to take any other action.

### d. Stormwater Operations and Maintenance Manual and Budget

A stormwater operations and maintenance manual and budget conforming to Sec. 9.2.2.D.2. shall be attached to and incorporated into the maintenance covenant as an exhibit.

### e. Insurance

The party responsible for maintenance of the stormwater control facilities shall, as part of the routine costs and expenses of maintaining any stormwater control facility, procure and maintain in full force and effect liability insurance in an amount not less than \$1,000,000 of coverage.

**f. Standards of Maintenance for Stormwater Control Facilities**

A statement that stormwater control facilities shall be maintained in accordance with the attached stormwater operations and maintenance manual and budget and at all times, the stormwater control facilities shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities and that the stormwater control facilities shall perform as designed.

**g. Responsibility for Stormwater Control Maintenance**

- i. A statement that the property owners' association or a designated commercial lot owner, shall be responsible for all stormwater control facilities in accordance with the attached stormwater operations and maintenance manual and budget.
- ii. A statement that the failure to maintain any stormwater control facility in accordance with the terms of the maintenance covenant and this UDO is a violation of the City Code, potentially subjecting each lot owner subject to the maintenance covenant to significant daily civil penalties and other enforcement actions.

**h. Stormwater Control Facilities Maintained by an Association**

- i. If a property owners' association is delegated maintenance responsibilities for the stormwater control facilities, then membership into the association shall be mandatory for the owner of each parcel served by the facility, such membership shall be appurtenant to the parcel and shall run with ownership of the parcel.
- ii. The property owners' association shall have the power to levy assessments for the operation and maintenance of the stormwater control facilities and all unpaid assessments levied by the association shall become a lien on the individual parcel.
- iii. The calculation of the assessment charge shall be set forth in a subsequent recorded document.
- iv. Any property owners' association responsible for maintenance of stormwater control facilities shall be established in accordance with N.C. Gen. Stat., Chapter 47C and Chapter 47F and the property owners' association declaration (or equivalent) shall conform to all applicable provisions of the City Code.

- v. The common expenses of the property owners' association shall include, without limitation, costs and expenses for operation and maintenance of stormwater control facilities, all costs for insurance premiums and any other costs listed in the stormwater operations maintenance manual and budget.

**i. Stormwater Control Facilities Maintained by a Commercial Lot Owner**

- i. If a commercial lot owner is responsible for the maintenance of the stormwater control facilities, said owner is responsible for making all repairs and replacements of the stormwater control facilities in accordance with the construction drawings approved by the City.
- ii. Each owner of a parcel served by the stormwater control facility shall be subject to an assessment charge levied by the designated responsible lot owner.
- iii. The assessment charge shall include, without limitation, the actual costs for repairing and maintaining the stormwater control facility, all costs for insurance premiums associated with the stormwater control facility, all costs of required inspections of the stormwater control facility and any other costs listed in the stormwater operations maintenance manual and budget.
- iv. The calculation of the assessment charge shall be set forth in a subsequent recorded document.
- v. Any assessment charge levied against a lot and remaining unpaid for a period of 30 days after the payment due date shall be delinquent and shall constitute a default of this covenant entitling the lot owner responsible for maintenance of the stormwater control facilities to bring an action at law against the defaulting party plus interest charges, together with all costs and expenses of collection incurred, including, without limitation, court costs and reasonable attorney fees actually incurred.
- vi. Each parcel owner served by the stormwater control facility shall have the right to maintain, repair and replace the facility if, after 45 days written notice, the commercial lot owner responsible for maintenance, repair and replacement fails to faithfully discharge its responsibility.

- vii. The parcel owner performing any maintenance or repair of the facility shall have the same rights as the designated commercial lot owner to assess all other parcels served by the stormwater control facility.
- viii. At any time, the commercial lot owner responsible for the maintenance of stormwater control facility may assign its responsibilities and rights to a property owners' association established in accordance with N.C. Gen. Stat., Chapter 47C and Chapter 47F. In such instance, the owners of the parcels served by the stormwater control facility shall be members of the property owners' association.

**j. City Right to Maintain and Repair Stormwater Control Facilities and City's Right of Reimbursement**

- i. If the stormwater control facilities are not performing adequately or as intended or are not properly maintained or replaced, the City, in its sole discretion, may, after written notice sent to the lot owners and any association, enter the development and perform such construction, installation, repair, reconstruction, replacement and maintenance of the stormwater control facilities as is necessary to remedy the situation.
- ii. If the City undertakes the activities listed above, the City shall be fully reimbursed for its costs of inspecting, monitoring, designing, constructing, repairing, reconstructing, replacing and/or installing the stormwater control facility or facilities. Such costs shall include the City's costs of administration, overhead, contracting and public advertising.
- iii. In addition to any other rights the City has to be reimbursed for its costs, the City may levy an assessment against each lot served by the noncompliant stormwater control facility. No assessment will be levied by the City without prior notice to affected lot owners. Any unpaid assessment levied by the City shall be, as allowed by law, a lien against the delinquent lot.

**k. City's Right To Private Assessments**

- i. In addition to all of the remedies set forth herein, if the City has not been fully repaid for the work the City performed on any stormwater

control facility owned, in fee or easement, by either a property owners' association or a commercial lot owner with the power to assess lot owners for maintenance of the stormwater control facility, the property owners' association and the private commercial lot owner shall assign to the City their right to receive common expense assessments, including stormwater assessments.

- ii. The association and private commercial lot owner shall designate and appoint the City as attorney in fact for the expressed and limited purpose of assessing and pursuing collection of such unpaid reimbursement owed to the City.
- iii. No assignment of assessment rights shall become effective without 60 days prior written notice to the applicable private commercial lot owner, property owners' association and its members.

**l. Action for Specific Performance**

- i. That, recognizing the consequences to the City of noncompliance with the obligations of the maintenance covenant, the City shall have the right to seek, in any court of appropriate jurisdiction, judicial action for specific performance of any of the obligations and remedies established in this maintenance covenant.
- ii. The rights of the City within the maintenance covenant shall not limit any other remedies or enforcement options available to the City under the maintenance covenant, the City Code or State law.

**m. No Public Adoption**

- i. A statement that the City's exercise of its rights under this maintenance covenant, its abatement of public nuisance or its repair of unsafe structures shall not constitute adoption of any stormwater control facility by the City.
- ii. A statement that the legal authority of the City is not intended to impede or prohibit the property owners' association or lot owners from taking all necessary actions to inspect, maintain, repair, replace and reconstruct stormwater control facilities so that they function safely, perform the function for which they were created and comply with the provisions of this maintenance covenant and the City Code.

**n. City's Right of Non-Action**

A statement that the maintenance covenant shall not obligate the City to monitor, maintain, repair, reconstruct, install or replace any stormwater control facility or measure and that the City shall not be liable for the condition or operation of stormwater control facilities.

**o. Governmental Functions; Superseding Regulations**

- i. A statement that nothing contained in the maintenance covenant shall be deemed or construed to, in any way, stop, diminish, limit or impair the City from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions.
- ii. A statement that the maintenance covenant shall not restrict or prevent the application of later adopted ordinances or other enactments which may supplement or supersede the provisions of the maintenance covenant.

**p. Joint and Several Liability**

- i. A statement that each lot owner served by one or more stormwater control facilities is jointly or severally responsible for repairs, replacement and maintenance of the stormwater control facilities, including payment of any unpaid ad valorem taxes, public assessments for improvements and unsafe building and public nuisance abatement liens charged against the stormwater control facility and/or the lots served by the facility, including all interest charges thereon, together with all cost and expenses of collection incurred, such as, without limitation, court costs and attorney's fees incurred.
- ii. The maintenance covenant shall establish a right of contribution in favor of each owner who pays more than the owner's pro rata share of costs and expenses against all other owners whose real property is served by the same stormwater control facility.
- iii. A statement that pro rata sharing may be established either by maintenance assessment provisions for stormwater control facilities in subsequently recorded documents or by dividing the acreage of such owner's portion of the real property served by the stormwater control facilities by the total acreage of the portion of the

development served by the same stormwater control facility when no maintenance assessment covenants apply to the property.

- iv. A statement that failure to maintain the stormwater control facilities in accordance with the terms of the maintenance covenant and the City Code is a violation of the City Code potentially subjecting each parcel owner subject to the maintenance covenant to significant daily civil penalties and other enforcement actions.

**q. Permanently Protected Undisturbed Open Space Areas**

A statement that within permanently protected undisturbed open space areas there shall be no land-disturbing activity, no tree disturbing activity, no placement of impervious surface, no removal of vegetation, no encroachment or no construction or erection of any structure shall occur except in accordance with a permit first being issued by the City.

**r. Severability**

The sections, paragraphs, sentences, clauses and phrase of the maintenance covenant are severable and if any phrase, clause, sentence, paragraph or section of the maintenance covenant is declared invalid by a valid judgment, order or decree of any court of competent jurisdiction, such invalidity shall not affect the remaining phrases, clauses, sentences, paragraphs and sections of the maintenance covenant.

**s. Completion and Recording of Maintenance Covenant Form**

- i. The maintenance covenant shall be binding on all current and subsequent owners of property served by the stormwater control facilities. To protect the interests of the City and the public at large, any existing deed of trust, mortgage or lien encumbering the property, other than tax liens for the current tax year or governmental improvement assessments, must be subordinated to the maintenance covenant.
- ii. Prior to recording the maintenance covenant, the attorney who prepared the maintenance covenant shall certify in writing to the City that the maintenance covenant was prepared on a City form that contains all the contents required by Sec. 9.2.2.G.2. Certifications shall be on forms approved by the City and shall accompany the maintenance covenant forms.

- iii. The maintenance covenant shall be recorded with the local county register of deeds office immediately following the recording of any new lot served by the stormwater control facility or prior to the issuance of any building permit for any existing lot except for improvements made pursuant to *Chapter 8. Subdivision & Site Plan Standards*. The maintenance covenant must be the first encumbrance recorded subsequent to the recording of the subdivision plat.
- iv. A recorded copy of the maintenance covenant shall be given to the Stormwater Utility Division of Public Works within one business day following recordation. No building permit shall be issued for the property subject to the maintenance covenant until a recorded copy of the maintenance covenant is provided to the Office of Development Services.

### 3. Payment to Stormwater Facility Replacement Fund

- a. At the time of either recording a subdivision plat or issuance of a building permit for a lot not established by subdivision, whichever event first occurs, the developer shall pay to the City a stormwater facility replacement fund payment, which payment shall equal 24% of the estimated cost of constructing all stormwater control facilities shown on applicable development plans.
- b. The purpose of the stormwater replacement fund is to ensure that adequate funds are available to the City for the maintenance, repair replacement and reconstruction of stormwater control facilities required by this UDO. Funds expended from the stormwater facility replacement fund shall be used only for the repair, maintenance, reconstruction and/or replacement of stormwater control facilities, together with the costs incurred by the City associated with any work and/or redesign of the facilities.
- c. No funds from the stormwater facility replacement fund shall be used for administration of this fee program. Monies collected from the stormwater replacement fund may be spent for maintenance, repair, reconstruction and replacement of any stormwater control facility required by this UDO and located within the City limits or its extra-territorial jurisdiction.

- d. Payments collected by the City pursuant shall be kept separate from other revenues of the City. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in N.C. Gen. Stat. §159-30; all income derived shall be deposited in the separate account and may only be used for repair, maintenance, reconstruction and replacement of stormwater control facilities together with the costs incurred by the City associated with any work or redesign of the facilities.
- e. Monies expended from the stormwater facility replacement fund, together with interest, may be recouped by the City from lot owners served by stormwater control facilities maintained, repaired, reconstructed and replaced by the City or its contractors. All recouped monies and interest shall be returned to the stormwater facility replacement fund.
- f. The payment of stormwater facility replacement fees is not intended as a substitute for security to ensure the construction of the facilities, which security may be required at such point in the development process as specified in City ordinances and policies.

### H. Annual Inspections and Inspection Report Required

The responsible party for maintenance of the stormwater control measures or devices must submit an annual inspection report from a qualified registered North Carolina professional engineer, surveyor or landscape architect to the Stormwater Utility Division of the Public Works Department. The inspections report shall contain all of the following:

- 1. The name and address of the land owner;
- 2. The recorded book and page number of the lot of each required stormwater control facility and required open space area;
- 3. A statement that an inspection was made of all required stormwater control facilities and open space areas;
- 4. The date of the inspection;
- 5. A statement that all inspected stormwater control facilities and open space areas are performing properly and are in compliance with the approved stormwater control plan, the applicable maintenance manual required by Sec. 9.2.2.D.2. and the Raleigh Stormwater Control and Watercourse Buffer Manual. No sampling of pollutant loading is required as part of the inspection;

6. The original signature and seal of the engineer, surveyor or landscape architect; and
7. All inspection reports shall be on forms supplied by the City. An original inspection report shall be given to the Office of Development Services beginning from the date of the as-built was first certified under Sec. 9.2.2.D.3. and each year thereafter on the anniversary date of the certification.

### Sec. 9.2.3. Watercourse Buffers

#### A. Natural Resource Buffers

##### 1. General Rules for All Natural Resource Buffers

Natural resource buffers are intended to provide an area where stormwater flows in a diffuse manner so that the stormwater runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place. The following rules apply to all required natural resource buffers.

- a. Natural resource buffers shall be delineated on recorded final subdivision plats or at the time of development of the property.
- b. The City Council may reduce the width of natural resource buffers when it determines that the extent of the natural resource buffer yard will deprive the landowners of reasonable use of their property.
- c. The width of the natural resource buffer shall be measured perpendicularly to the flow of the watercourse and horizontally from the edge of the watercourse banks. When no watercourse banks exist, the centerline of the watercourse shall be used.

##### 2. Falls Watershed Protection Overlay District, Swift Creek Watershed Protection Overlay District and Conservation Management District Watercourse Buffers

Natural resource buffers shall be established along primary and secondary watercourses in a -FWPOD, -SWPOD or CM District.

###### a. Primary Watercourse Natural Resource Buffers

Natural resource buffers along primary watercourses must meet the following standards.

- i. The buffer must be a minimum of 60 feet wide along each side of any watercourse draining 25 or more acres.
- ii. The buffer must be a minimum of 35 feet wide along each side of any watercourse draining 5 or more acres but less than 25 acres.
- iii. The buffer must be a minimum of 35 feet wide along each side of any watercourse which is a stream draining less than 5 acres.
- iv. In the event that the property or subdivision contains impervious surface lot coverage in excess of 24% in a secondary reservoir watershed protection area, the buffer shall be no less than 100 feet wide along each side of the watercourse.

##### b. Secondary Watercourse Natural Resource Buffers

Unless part of a primary watercourse natural resource buffer, the secondary watercourse natural resource buffers consists of one or more of the following:

- i. Lands within the flood prone areas that adjoin primary watercourse natural resource buffers; or
- ii. Lands with slopes 15% or greater, adjoining a primary watercourse natural resource buffers or a flood prone area.

##### 3. Metro-Park Overlay District Watercourse Buffers

Natural resource buffers shall be established as primary tree conservation areas pursuant to Sec. 5.2.2.C.2. and Article 9.1. *Tree Conservation* along primary and secondary watercourses in a -MPOD. Required tree conservation areas shall meet the following standards.

- a. The primary tree conservation area must be a minimum of 50 feet wide along each side of any watercourse draining 25 or more acres.
- b. The primary tree conservation area must be a minimum of 25 feet wide along each side of any watercourse draining 5 or more acres but less than 25 acres.

##### 4. Urban Water Supply Watershed Protection Overlay District Watercourse Buffers

Natural resource buffers shall be established along primary and secondary watercourses in a -UWPOD. Required natural resource buffers shall meet the following standards.

- a. A minimum 30 foot wide natural resource buffer is required for all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps.
- b. A minimum 100-foot wide natural resource buffer is required for all new development activities that exceed:
  - i. Two dwelling units per acre or 20,000 square foot lot excluding roadway right-of-way; or
  - ii. 24% lot coverage for all other residential and nonresidential development.
- c. Within -UWPOD, these natural resource buffers do not apply to:
  - i. New detached houses on a nonconforming lot of record;
  - ii. Redevelopment of lots containing detached houses; and
  - iii. Activity in a single development that disturbs less than 1 acre.

#### **B. Uses Allowed Within Natural Resource Buffers**

No development, expansion of development or change in use may occur within a required natural resource buffer except as allowed below.

1. Property outside of a riparian water surface buffer, but situated within a required natural resource buffer, shall comply with all of the following.
  - a. Driveways and vehicular surface areas, not including public streets, are allowed; provided that, all of the following are met:
    - i. Any crossing is as close to perpendicular as practicable and insures minimal impact to the surrounding buffer; and
    - ii. The driveway or vehicular use area does not constitute more than 40% of the front yard area of any detached house.
  - b. Fences, walls, statuary, monuments, fountains or signs shall be located outside any primary watercourse buffer.
  - c. Garden crops involving cultivation shall be located outside any primary watercourse buffer.
  - d. Greenways, sidewalks and walkways shall be located outside of a primary watercourse buffer and meet the requirements of Sec. 9.2.3.C.2. or shall be unpaved.

- e. New drainage ditches, roadside ditches and stormwater outfalls shall meet the requirements of Sec. 8.8.2. and Sec. 9.2.3.C.2.
- f. Playground equipment on single-unit or two-unit living lots.
- g. Ponds, stormwater management ponds, reservoirs, provided that, the standards of Sec. 9.5.1.C., Sec. 9.5.2.C. or Sec. 9.5.3.C. are met.
- h. Public streets, provided that the standards of Sec. 9.3.6., Sec. 9.3.7. and the Raleigh Street Design Manual are met.
  - i. Railroad crossings.
- j. Stormwater control facilities and stormwater outfalls shall meet the requirements of Sec. 9.2.3.C.2. if there is no feasible alternate location.
- k. Utility lines.
  - i. Non-electric utility lines are allowed, but if located in a -UWPOD, -FWPOD, -SWPOD or CM District, the utility lines must meet the standards of Sec. 9.2.3.C. if situated within a primary watercourse buffer area.
  - ii. Underground electrical utility lines are allowed, but if located in a -UWPOD, -FWPOD, -SWPOD or CM District, the underground utility lines must meet the standards of Sec. 9.2.3.C. if situated within a primary watercourse buffer area.
  - iii. Overhead electric utility lines are allowed, but if located in a -UWPOD, -FWPOD, -SWPOD or CM District, the overhead utility lines must meet the standards of Sec. 9.2.3.C. if situated within a primary watercourse buffer area.
- l. With the exception of any display area or any gasoline pump island, accessory structures and uses are allowed within a secondary watercourse of a -FWPOD, -SWPOD or CM District, provided that the following standards are met.
  - i. No land-disturbing activity for any allowed use shall affect more than 12% of the portion of a lot within a secondary watercourse natural resource buffer.
  - ii. Land-disturbing activity on slopes between 15% and 20% may occur no closer than 80 feet to the edge of a watercourse.
  - iii. Land-disturbing activity on slopes greater than 20% may occur no closer than 95 feet to the edge of a watercourse.

- iv. Upon a recommendation of the Stormwater Management Advisory Commission and approval by the City Council, land-disturbing activities may exceed the standards above; provided that the person submitting the request shows that the potential for stormwater infiltration within a site, the control of stormwater velocity and the restriction of sedimentation both during and after construction are equal to or greater than that which would have been achieved following standards in this Article. The applicant must also show that maintenance provisions are made to maintain the level of infiltration, velocity control and sedimentation on the site.
2. Property located within a riparian water surface buffer and within a required natural resource buffer, must also comply with Title 15A of the North Carolina Administrative Code Subarticle 2B, section .0233, as amended from time to time.
3. Property located inside of a riparian water surface buffer and outside a required natural resource buffer is subject to Title 15A of the North Carolina Administrative Code Subarticle 2B, section .0233, as amended from time to time.

### C. Regulations Applied to Uses Allowed in Watercourse Buffers

#### 1. Regulations Applying to All Natural Resource Buffers

Persons who install utility mains shall submit a plan to the City proving that sediment loss during and after installation is less than would have been achieved if other locations outside the buffer were used.

#### 2. Regulations Applying to Both Primary and Secondary Buffer Areas

##### a. Stormwater Control Facilities in Primary or Secondary Areas

Stormwater control facilities may be allowed within a primary or secondary area only if the following requirements are met:

- i. The constructed uses within the buffer area require the use of such facilities;
- ii. The provisions of *Sec. 9.4.4.G.4.* require facilities in the buffer area;
- iii. A wet pond is required by *Sec. 9.5.1.*, *Sec. 9.5.2.* or *Sec. 9.5.3.*; or
- iv. A lake or wet pond is created or preserved.

#### b. Stormwater Control Facilities in Required Buffers

Stormwater control facilities may be allowed within required buffer areas only if the following requirements are met.

- i. The velocity of the stormwater shall not exceed a non-erodible velocity, according to *Sec. 9.4.4.G.3.*, beyond the outlet of the storm control facilities.
- ii. Trees over 2-inch DBH which:
  - a) Would be destroyed by installation of storm control facilities, but not including lakes or wet ponds;
  - b) Lie within the greater distance of either a 7-foot radius or 1 foot in diameter for each inch of circumference of the tree measured from the outer edge of the grading limits of a storm drainage project shall be replaced by 1 new tree planted in the same general location, all to achieve the same effect as shown on an approved site plan. The planting must be a minimum caliper of 2 inches and be at least 8 feet tall at time of planting; and
  - c) This provision shall not require trees to be planted on cleared land forming the basin of a wet pond or lake.
- iii. Stormwater control facilities, which are permitted in the primary and secondary buffer area, shall comply with *Sec. 9.5.1.C.*, *Sec. 9.5.2.C.* or *Sec. 9.5.3.C.*

### D. Diffuse Stormwater Flow Required

1. All stormwater runoff from new man-made stormwater control facilities, including new ditches or canals, which flow into a watercourse natural resource buffer or into riparian surface water buffer shall be diffused flow so as not to concentrate stormwater or form gullies.
2. Diffuse flow shall be maintained.
3. The landowner or person in possession or control of the land shall be responsible for dispersing concentrated flow of stormwater runoff.
4. The landowner shall take corrective action to prevent the formation of erosion gullies and the landowner shall take corrective action to restore diffuse flow.
5. When diffuse flow is impractical to achieve, stormwater control facilities that attenuate the flow of stormwater runoff and control nitrogen may be approved by the City as an alternative means of compliance.

## E. Watercourse Buffer Permits

1. No development, expansion of development or change in use may occur on a lot containing a natural resource buffer or open space area required as part of an approved stormwater control plan, without first being issued a written watercourse buffer permit from the Office of Development Services.
2. The Public Works Director may not issue a watercourse buffer permit until the boundaries of any required natural resource buffer, riparian surface water buffer or permanently protected undisturbed open space areas that are adjacent to or encompass a work site are demarcated by a protective fence in the field.
3. No watercourse buffer permit may be issued for work in a riparian surface water buffer regulated by the State pursuant to Title 15A of the North Carolina Administrative Code Subarticle 2B, Section .0233 unless:
  - a. The North Carolina Division of Water Quality has determined that surface waters are not present;
  - b. The applicant provides sufficient documentation to demonstrate that the requested work is exempt under the rule;
  - c. The North Carolina Division of Water Quality has determined that the requested work is allowable with mitigation under the rule; or
  - d. The North Carolina Environmental Management Commission has issued a variance under the rule.
4. Before receiving a watercourse buffer permit, the applicant must present to the Stormwater Utility Division of the Public Works Department with a copy of the applicable determination of the North Carolina Division of Water Quality or a copy of the variance issued by the North Carolina Environmental Management Commission.

## Sec. 9.2.4. Inspections

- A. Agents and officials of the City shall have the right to inspect sites subject to the requirements of this Article to determine whether the measures, devices and open space areas required by this Article to control the rate and quality of stormwater are installed and operating as approved, whether such measures, devices and open space areas are being maintained and to determine if any encroachments or activities in any watercourse buffer area not permitted by this Article have occurred.

- B. Notice of this right to make inspections shall be included in the stormwater control and watercourse buffer permits.
- C. No person shall obstruct, hamper, delay, resist or interfere with City agents or officials while in the process of carrying out their official duties.

## Sec. 9.2.5. Enforcement

### A. Civil Penalties

1. Any person who violates any of the provisions of this Article, any regulation, rule or order duly adopted pursuant to this Article; or who undertakes or continues any activity for which a stormwater control plan is required except in accordance with the terms, conditions and provisions of an approved plan shall be subject to the specific civil penalties set forth in Sec. 9.2.5.F.
2. The penalties shall be assessed by the Public Works Department. The initial civil penalty shall be assessed from the date of the violation. No penalty shall be assessed until the person alleged to be in violation is served by registered mail, certified mail-return receipt requested, personal service notice of violation or any other means authorized under N.C. Gen. Stat. §1A-1, Rule 4.
3. The notice shall specify a time by which the person must comply with this Article or any regulation, rule or order, duly adopted pursuant to this Article and inform the person of the actions that need to be taken to comply.
4. In setting the time for compliance, the City shall take into consideration the quantity and complexity of the work, the consequences of delay, the effectiveness of action taken by the violator and the staff investigative costs, but in no event shall the specified time limits be more than 10 calendar days for compliance, except a shorter time period may be required by the City inspector for an imminent threat to either severely degrade a watercourse or cause severe runoff.
5. The notice shall state that failure to correct the violation within the specified time period will result in the additional civil and criminal penalties for a continuing violation. If, after the allotted time period has expired, corrective action has not been completed, the additional civil penalties shall be assessed from the date of the initial violation. Each day of continuing violation thereafter shall constitute a separate violation.
6. The Public Works Department shall make written demand for payment upon the person in violation and shall set forth the amount of the penalty

and the reason for assessing the penalty. Notice of the assessment shall be by registered or certified mail or any other means authorized under N.C. Gen. Stat. §1A-a, Rule 4. If the payment is not received within 30 days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City, in the appropriate division of the general court of justice in Wake County for recovery of the penalty. Such civil actions must be filed within 3 years of the date the assessment was due.

## B. Stop-Work

1. A stop-work order may be issued if an activity is being conducted or was conducted in violation of this Article, any regulation, rule or order duly adopted pursuant to this Article or is being undertaken or continued for which a stormwater control plan is required except in accordance with the terms, conditions and provisions of an approved plan and that either:
  - a. The activity is being conducted without an approved plan, a permit or both;
  - b. The violation endangers life, property or both or that such endangerment is imminent; and
  - c. The activity is being conducted without installing all protective measures and devices in accordance with the approved stormwater control plan.
2. All stop-work orders shall be in writing served on and directed to the person doing the work and shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed.
3. The stop-work order shall be rescinded by written notice if all the violations for which the stop-work order were issued are corrected, no other violations have occurred and all measures necessary to abate the violations have been taken.

## C. Criminal Penalties

1. Any person who knowingly or willfully violates any provision of this Article, rule, regulation, order duly adopted or issued pursuant to this Article or who knowingly or willfully undertakes or continues an activity for which a stormwater control plan is required, except in accordance with the terms, conditions and provisions of an approved plan, shall be guilty of a

misdemeanor punishable by imprisonment not to exceed 90 days or by a fine not to exceed \$5,000 or both, in the discretion of the court.

## D. Injunctive Relief

1. Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate this Article, rule, regulation or order duly adopted or issued pursuant to this Article or any term, condition or provision of an approved stormwater control plan, the City may, either before or after the institution of any other action or proceeding authorized by this UDO, institute a civil action to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Wake County.
2. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed or to prevent the threatened violation. The institution of an action for injunctive relief under this Subsection shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations to this UDO.

## E. Restoration

1. Any person who violates any of the provisions of this Article, any regulation, rule or order duly adopted pursuant to this Article; or who undertakes or continues an activity except in accordance with the terms, conditions and provisions of an approved stormwater control plan is required to restore the waters, land and vegetation affected by the violation so as to minimize detrimental effects.
2. The restoration plan shall first be approved by the City. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this section. The owner of any land on which unauthorized tree clearing or tree damaging, in whole or in part has occurred within a watercourse buffer or within a permanently protected undisturbed open space area, shall re-stabilize the land and plant 9 inches of tree circumference for every 100 square feet of disturbed land area or disturbed vegetative area. All replacement trees shall be native woodland species. Any watercourse that has been unlawfully piped, relocated or otherwise unlawfully disturbed shall be re-established. These plantings shall be installed within the time limit specified by the Public Works Director. In setting the time limit for compliance, the Public Works Director shall take into consideration the quantity of work, planting season and the consequences of delay.

## F. Specific Civil Penalties

Civil penalties for specific violations of *Article 9.2. Stormwater Management* shall be assessed as follows.

### 1. Work without a Permit

\$5,000 per day for failure to secure a valid required stormwater control permit or watercourse buffer permit prior to conducting any land-disturbing activity, any development or expansion, any placement of impervious surfaces or any new use or construction.

### 2. Failure to Follow Plan

\$3,000 per day for failure to conduct a land-disturbing activity, placement of impervious surfaces, development or expansion in accordance with the provisions of an approved stormwater control plan.

### 3. Failure to Maintain Stormwater Control Facilities

\$2,500 per day for failure to maintain stormwater control facilities.

### 4. Failure to File Inspections Report

\$2,500 per day for failure to file required inspection report.

### 5. Failure to Submit As-Built Plans

\$2,500 per day for failure to submit required as-built plans.

### 6. Failure to Certify

\$2,500 per day for failure to certify that installed stormwater measures and devices are in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual and City approved the stormwater control plan, including modifications thereto approved by the City.

### 7. Falsified Certification

\$3,000 for making a falsified certification.

### 8. Failure to Record

\$2,500 per day for failure to record or timely record with the local register of deeds required plats identifying stormwater control facilities or required maintenance covenants or required escrow agreements.

### 9. Failure to Revise Plan

\$2,500 per day for failure to file an acceptable, revised stormwater control plan within the established deadline after being notified of the need to do so.

### 10. Failure to Correct a Violation

\$5,000 per day for failure to correct a violation within the time limitations established in a notice of violation.

### 11. Failure to Obey a Stop-Work Order

\$5,000 per day for a violation of a stop-work order.

### 12. Any other Action

\$2,500 per day for any other action or failure to act that constitutes a violation of the Article.

### 13. Repeated Violation

An additional civil penalty of \$1,000 per day shall be charged to any person assessed a civil penalty for any violation of this Article within the prior 2 years. No initial civil penalty shall exceed \$5,000; this limitation shall be inapplicable to continuous violations.

## Article 9.3. Floodprone Area Regulations

### Sec. 9.3.1. Floodprone Areas

#### A. Mapped Floodprone Areas

1. The mapped floodprone areas are divided into 3 primary areas.
  - a. Floodway areas;
  - b. Floodway fringe areas; and
  - c. Future conditions flood hazard areas.
2. Floodprone areas are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) in its flood insurance study and accompanying flood insurance rate maps, flood hazard soil maps and drainage basin study maps. These maps together with all explanatory matter attached to them are adopted and incorporated by reference into this UDO.
3. Floodprone area regulations are superimposed on the zoning districts established in *Article 1.3. Zoning Districts* and the requirements of this Article apply in addition to any base zoning requirement.
4. The City Council may, on its own motion or upon petition after public notice and hearing amend, supplement, change, modify or repeal the regulations and the flood hazard boundary maps and the delineated flood storage area maps. Amendment to flood insurance rate maps originating from the Federal Insurance Administration shall not become official until a letter stating approval from the Federal Insurance Administration is received by the City.

#### B. Additional Floodprone Areas

Floodprone areas adjoining creeks, streams, tributaries and watercourses not defined on the flood hazard boundary maps include the following.

1. Watercourses that drain 1 square mile or more, lying 5 vertical feet from the outer limit of the flood hazard soils or the made land which spans flood hazard soils lying along such watercourses; and
2. Watercourses draining less than 1 square mile are defined as those areas lying within 2 additional feet vertical from the outer limits of the flood hazard soils or made land which traverses such soils.

### Sec. 9.3.2. Flood Hazard Soils

- A. Flood hazard soils are shown on aerial photographic base maps prepared by the U.S. Soil Conservation Service and the North Carolina Agricultural Experiment Station from a soil survey.
- B. The outer limits of flood hazard soils may be specifically described by metes and bounds or other means from detailed surveys by owners of property on which they lie, provided the accuracy of such description is reviewed and approved by the Public Works Director and that maps or plats of such description are filed with the Clerk of the Superior Court and with the Register of Deeds of Wake County.
- C. Upon approval by the Public Works Director, drainage basin study maps may supersede flood hazard soil maps. Floodprone areas and flood elevation data shall be obtained from the most current drainage basin study maps or the flood studies.

### Sec. 9.3.3. Rules for Interpretation of Boundaries

- A. The boundaries of floodprone areas shown on flood insurance rate maps shall be initially determined from the information obtained from the Corps of Engineers and presented in the flood insurance rate maps and the flood insurance study by FEMA.
- B. Floodprone boundaries shall be based on the engineering data that most accurately reflects actual field and hydrologic conditions. Field and hydraulic conditions shall prevail over mapped boundaries shown on flood insurance study profiles, flood hazard soils and drainage basin study maps.
- C. In areas between official cross-sections, floodprone area boundaries shall be determined by scaling distances on the flood insurance rate maps. Where interpretation of the lateral location of scaled distances is needed to determine the actual field location of these boundaries, the Public Works Director is directed to make the necessary interpretation and corrections of flood insurance rate maps applying the following:
  1. The base flood elevation shall be the controlling factor in locating the outer limits of a floodway fringe or future conditions flood hazard area boundary;
  2. Interpretations of floodway boundaries on flood insurance rate maps shall be based on the current procedures for interpreting floodways in accord with the FEMA guidelines; and

3. Interpretation of the flood hazard soils boundaries shall be based upon hydrologic analysis and hydraulic routing methods used by the Corps of Engineers to establish flood insurance rate maps. These methods are contained in the flood insurance study for Wake County as published by FEMA. Approved interpretations of flood hazard soils boundaries may be described by bearings and distances and drawn with elevations in mean sea level datum given for each cross-section used in the routing computations.
- D. All interpretation requests shall be accompanied with a list of the names, mailing addresses and Wake County tax parcel numbers of any property owner, including the petitioner, affected by the requested interpretation. The Public Works Director shall give notice by certified or registered mail, return receipt requested or by personal service to such property owners. The notices required to be given in this section are for the convenience of property owners and any defect or omission shall not impair the validity of any hearing or decision with respect to any interpretation.
- E. The notice shall inform affected property owners that within 14 days of the date of the letter, they may direct the Public Works Director to conduct a public hearing on the matter. All requests for a public hearing shall be directed to the Public Works Director. At least 10 days prior to a requested public hearing, the Public Works Director must by certified or registered mail-return receipt requested or by personal service give notice of the time and place of the hearing to the petitioner and to affected property owners. Hearings shall follow the procedures prescribed by law for hearings before the Board of Adjustment. The establishment and documentation of field conditions used in interpretations shall be based on certified testimony or information supplied by a licensed registered land surveyor and all calculations shall be made and certified by a registered and qualified professional.
- F. Upon rendering a decision, the Public Works Director shall immediately give notice by certified or registered mail, return receipt requested or by personal service to the petitioner and to affected property owners. Within 15 days after receipt of written notice of the interpretation, any affected property owner, including petitioner, may appeal the decision of the Public Works Director to the City Council.
- G. All approved interpretations of floodprone boundaries shall be described on maps or plats, which shall then be filed with the Clerk of the Superior Court and with the Register of Deeds of Wake County. The map or plats shall show the

locations of all cross-sections, the elevation at the boundary of the floodway fringe areas, future conditions flood hazard area and flood storage area at the cross-section, the location of a benchmark used for vertical control; its elevation in reference to mean sea level datum, all floodplain boundaries and the source of the floodplain area. The map or plats shall also bear the name, title and professional seal of the person who supplied the survey and the calculation as well as the date the interpretation was approved by the Public Works Director.

### **Sec. 9.3.4. Floodway and Non-Encroachment Areas**

#### **A. Prohibited Uses**

1. No encroachments, including fill, new construction, substantial improvements, structures, manufactured homes, use and other developments, are permitted within the floodway or non-encroachment areas unless it has been demonstrated that the proposed encroachment would not:
  - a. Adversely affect the capacity of the channel's floodway and non-encroachment areas or drainage facilities or systems;
  - b. Redirect velocities of water of the base flood or future conditions flood onto adjacent properties; or
  - c. Result in any increase in flood levels during the occurrence of the base flood or future conditions flood based on hydrologic and hydraulic analyses. Hydrologic and hydraulic analyses shall be performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of flood permit or Conditional Letter of Map Revision has been approved by FEMA. A Letter of Map Revision must also be obtained upon completion of the proposed encroachment.
2. No chemical storage facilities which store or process acetone, acetylene gas, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, gasoline, hydrochloric acid, hydrocyanic acid, magnesium, materials or fuel which are flammable or explosive, nitric acid, oxides of nitrogen, petroleum products, phosphorus, potassium, sodium, sulfur or any other item which in time of flooding is buoyant or could be injurious to human, animal or plant life is allowed in the floodway and non-encroachment areas.
3. No new solid waste disposal facilities, hazardous waste management facilities and salvage yards are allowed in the floodway or non-encroachment areas.

## B. Allowed Uses

Provided they are not otherwise prohibited in this UDO, the following uses are allowed within floodway and non-encroachment areas.

1. General farming, pasture, outdoor plant or nurseries, horticulture, forestry, wildlife sanctuary, game preserves and other similar agricultural wildlife and related uses.
2. Lawns, yards, gardens, parking areas, play areas and other similar uses.
3. Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, greenways, bikeways, hiking or horseback-riding trails, botanical gardens, open space and other similar private and public recreational uses.
4. Any other use not employing a structure and not subject to floating away during a flood.
5. Any use employing a structure, provided all portions of any structure, including foundation and supports, shall be located outside the floodway area and that any structure which overhangs the floodway is elevated above the depth of the 500-year flood.
6. Other encroachments, including fill, new construction, substantial improvements, structures as defined in the North Carolina State Building Code, manufactured homes, use and other developments when it has been demonstrated that the proposed encroachment would not do any of the following:
  - a. Adversely affect the capacity of the channels floodway and non-encroachment areas or drainage facilities or systems;
  - b. Redirect velocities of water of the base flood or future conditions flood onto adjacent properties; and
  - c. Result in any increase in the flood levels during the occurrence of the base flood or future conditions flood all based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit or a Conditional Letter of Map Revision has been approved by FEMA. A Letter of Map Revision must also be obtained upon completion of the proposed encroachment.

## C. Restrictions on Existing Structures

1. No structure existing and lying within a floodway shall be considered a nonconforming structure. All such structures may be repaired, improved, strengthened and enlarged; provided that no construction is permitted which will:
  - a. Enlarge the foundation area of the structure within the floodway;
  - b. Increase the bulk of the building or structure within the floodway below the base flood or future conditions flood level; or
  - c. Enlarge the surface area perpendicular to the direction of flow of the watercourse to which the floodway relates.
2. In the event of damage to an existing structure in a floodway by flood or other means that requires a substantial improvement of the structure, the structure may be repaired; provided that:
  - a. The surface area of the floodway formerly occupied by the structure shall not be increased;
  - b. The repairs to the structure shall incorporate appropriate floodproofing measures; and
  - c. The repairs shall not increase the bulk of the structure below the base flood or future conditions flood level.
3. Additions may be made to existing structures located in a floodway upon recommendation from the Corp of Engineers and upon a letter of approval from FEMA to the City Council that the impact of the proposed addition would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

## Sec. 9.3.5. Floodway Fringe and Future Hazard Areas

### A. Prohibited Uses

1. The storage or processing of acetone, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, hydrochloric acid, hydrocyanic acid, magnesium, nitric acid, oxides of nitrogen, phosphorous, potassium, sodium, sulphur or any other item which in time of flooding could be caustic is prohibited.
2. New solid waste disposal facilities, hazardous waste management facilities and salvage yards are prohibited in the floodway fringe areas and future conditions flood hazards areas.

3. In flood hazard soils, areas of watercourses that drain areas less than 1 square mile may use a structure or encroachment, including fill, which is located within 90% of the distance of the outer limits of the flood hazard soils, as measured from either side of the center line of the stream channel or the low point when there is no stream channel, or the midpoint, when there is no stream channel or low point and which increases the elevation of the base flood or future conditions flood at any point by more than ½ foot, is prohibited.
4. Nothing in this section prevents a landowner from redelineating flood hazard soils areas of water courses which drain less than 1 square mile to accommodate more than a ½ foot rise of the base flood or future conditions flood if:
  - a. All of the more than ½ foot flood rise for the base flood or future conditions flood remains on the property of petitioner;
  - b. The establishment and documentation of field conditions used in the redelineation are based on information supplied by a licensed registered land surveyor and all calculations are made and certified by a licensed professional engineer;
  - c. Any sanitary sewer manholes in an area of increased depth are floodproofed by the petitioner;
  - d. The petitioner notifies by certified or registered mail, return receipt requested, all adjoining property owners and tenants, including the petitioning property. Such notice shall explain the proposed redelineation and it shall inform such persons that they can appeal the proposed redelineation to the Public Works Director within 10 days after receipt of the letter;
  - e. Appeals from decisions of the Public Works Director shall be to the City Council; and
  - f. Upon the approval of the revised delineation by the City, the new delineation is recorded with the Register of Deeds of Wake County. Recorded delineations shall mark any additional lands subject to flooding as a “flood storage area.”

## B. Allowed Uses

Provided they are not otherwise prohibited in this UDO, the following uses are allowed within floodway fringe and future conditions flood hazard areas.

### 1. Uses Allowed Below the Regulatory Flood Protection Elevation

- a. Uses permitted and regulated in floodways.
- b. Nonresidential structures and residential accessory structures which comply with *Sec. 11.4.6.B.2.* or *Sec. 11.4.6.B.3.* subject to *Sec. 9.3.5.C.* below.
- c. Underground storage and structure foundations and supports which are watertight and substantially impermeable to the passage of water and are designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the base flood or future conditions flood at the location of the structure.

### 2. Uses Allowed Above the Regulatory Flood Protection Elevation

- a. Structures which comply with *Sec. 11.4.6.*
- b. Manufactured homes and additions to manufactured homes that comply with *Sec. 11.4.6.*
- c. Structures constructed on fill so that the lowest floor is above the regulatory flood protection elevation, provided the top of the fill is no lower than 1 foot below the regulatory flood protection elevation for the area and extends in all directions at least 15 feet beyond the limits of any structure or building.
- d. Open storage of materials subject to floating away during a flood provided the storage is placed on fill at least 1 foot above the regulatory flood protection elevation.

### C. Limits of Development

The lot coverage of any lot may not exceed 50% of the portion of the floodway fringe or future conditions flood hazard areas on that lot, with the following exceptions.

1. Uses permitted in floodways.
2. Ground level loading areas, parking areas, heliports and other similar ground level uses.
3. Any lot ½ acre or less in size which was recorded prior to May 2, 2006.
4. No existing or approved structure, for which a building permit has been issued prior to May 2, 2006, shall be considered a nonconforming structure.

In the event of damage to such a structure by flood or other casualty requiring a substantial improvement of said structure, the structure may be repaired or rebuilt with:

- a. An administrative approval by the Floodplain Administrator, if all of the following are met:
  - i. The land use existing at the time of the flood or other casualty remains the same;
  - ii. The area of the footprint of the structure does not increase; and
  - iii. There is no rise in the Base Flood Elevation or, if there is any rise in the Base Flood Elevation, as determined by a Flood Study identifying upstream and downstream structures that will be impacted, it will:
    - a) Not raise the levels of the base flood or future conditions flood onto impacted structures; and
    - b) Not redirect velocities of water onto impacted structures.
- b. A variance by the City Council, if all of the following are met:
  - i. The land use existing at the time of the flood or other casualty remains the same;
  - ii. The area of the footprint of the structure does not increase;
  - iii. There are unique circumstances applicable to the site such that strict adherence to the provisions of this Article will result in unnecessary hardship or create practical difficulties; and
  - iv. The variance granted is the minimum necessary to maintain the land use
  - v. A written request for a variance shall be submitted to the City Clerk and shall state the specific variance sought, the justification for the variance and what measures will be taken to ensure the requirements of this Article have been met to the maximum extent practicable.
- c. An administrative approval by the Floodplain Administrator for any redevelopment that does not increase the flood elevation and that decreases the bulk of an existing building or structure below the base flood or future conditions flood level by at least 25% of the portion exceeding 50% of the floodway fringe or future conditions flood hazard areas. Any additional fill or material being added as a part of the redevelopment shall be included for calculation of the bulk of the

proposed redevelopment. A written request for a variance shall be submitted to the Floodplain Administrator.

5. Notwithstanding the preceding exceptions, the City Council may approve a variance to the 50% lot coverage limitation where the following conditions are met:
  - a. There are unique circumstances applicable to the site such that strict adherence to the provisions of this Article will result in unnecessary hardship or create practical difficulties;
  - b. The variance is in harmony with the general purpose and intent of this Article; and
  - c. In granting this variance, public safety and welfare has been assured and substantial justice has been done.
  - d. A written request for a variance shall be submitted to the City Clerk and shall state the specific variance sought, the justification for the variance and what measures will be taken to insure the requirements of this Article have been met to the maximum extent practicable.
6. Upon a determination that the extent of the development limit will deprive the land owner of reasonable use of their property, the City Council may allow development in excess of the 50% lot coverage limitation of the floodway fringe or future conditions flood hazard areas.

### Sec. 9.3.6. Street Crossings Watercourses

- A. All streets and driveways or any bridge or culvert associated with any street or driveway, crossing a watercourse, shall be designed and constructed in accordance with City standards.
- B. Street crossings of natural resource buffer yards shall be as close to a perpendicular angle as possible.
- C. Any street, driveway, bridge or culvert associated with any street or driveway, which is located in a floodprone area draining less than 1 square mile and not shown on a FEMA map or located outside a floodprone area, may either increase the flow levels and area of flooding of the 10 through 100 year frequency floods or redirect floodwaters if the following is met:
  1. Copies of recorded flood easements or flood easements on recorded plats adequate to contain the increased flow levels are first submitted to the City; and

2. Land areas contained within the easement boundaries shall be delineated as flood storage areas.
- D. The following additional standards shall apply to all streets and driveways crossing watercourses draining 10 acres or more and which are located inside floodprone areas.
1. Any street, driveway, bridge or culvert associated with any street or driveway shall pass the 100 year flood crest, under free flow conditions that will not result in any increase in the elevation of the 10- through 100-year floods above those specified in the Flood Insurance Study, City of Raleigh, Federal Emergency Management Agency, latest publication.
  2. If the drainage areas exceed 1 square mile, the maximum rise allowed for the 100-year flood shall not exceed a total of 1 foot above the base flood elevation established for flood hazard soil areas or those elevations specified either in the drainage basin study maps or in the Flood Insurance Study, City of Raleigh, Federal Emergency Management Agency, latest publication.
  3. Base flood elevations for return periods of less than 100-years may be increased to exceed 1 foot, provided that the portion of the flood increase which is greater than 1 foot is either limited to the site boundaries of the property of the owner requesting this increase or restricted to flood storage areas shown on a recorded plat.

### **Sec. 9.3.7. Streets in Floodprone Areas**

- A. All streets in floodprone areas shall be designed and constructed to provide a minimum of 2 feet of vertical freeboard, as measured from the predicted 10 year flood peak water surface elevation to the low point of the top of curb or edge of pavement for streets without curbs. The following are exceptions to this standard:
1. Those portions of streets within allowable vertical and horizontal controls which act as a transition to existing streets; or
  2. When the City Council finds that the public benefit derived from the construction of the thoroughfare or collector street would be better served if these standards were varied.
  3. All thoroughfares in floodprone areas shall be designed and constructed so as not to be overtopped during the predicted 50 year storm. All other streets in floodprone areas shall be designed and constructed so as not to be overtopped during the predicted 25-year storm.

- B. For any street in floodprone areas, any proposed increase above floodway levels specified in the Flood Insurance Study, City of Raleigh, Federal Emergency Management Agency, latest publication may be allowed, provided that the change is approved by the Federal Insurance Administration.
- C. Any proposed street or driveway, bridge or culvert associated with a street or driveway (including fill), located in the floodprone area must be accompanied by a sealed written statement by a registered professional engineer licensed in North Carolina certifying that such structure is designed and constructed in accordance with this section and shall specify which provision applies.
- D. Outside of regulated discharge floodplain areas, the maximum depth of any overtopping flow during the predicted 100 year flood shall not exceed 1 foot. The downstream slope of the roadway section shall be protected from erosion due to the overtopping flow. Streets located within regulated discharge floodplain areas must be located at or above the 100 year flood elevation, consistent with the regulations of Sec. 9.3.5.A.

### **Sec. 9.3.8. Warning & Disclaimer of Liability**

- A. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.
- B. This Article does not imply that areas outside the boundaries of floodprone areas or land uses permitted within such areas will be free from flooding or flood damages.
- C. This Article shall not create liability on the part of the City or by any officer or employee for any flood damages that result from reliance on this Article or any administrative decision lawfully made.

## Sec. 9.3.9. Penalties

### A. Civil Penalties

1. Any person controlling or managing any building or land where there is placed or there now exists anything in violation of this Article; or, any person who shall commit or assist in the commission of any violation of this Article; or, any person who shall build contrary to this Article after plans and specifications have been submitted to and approved by the Public Works Director; or, any person who shall omit, neglect or refuse to do any act provided for in this Article shall be subject to a civil penalty of \$100 per day of continuing noncompliance.
2. No penalty shall be assessed until the person alleged to be in violation is served by registered mail notice to comply. The notice shall set forth a description of the violation for which the penalty has been invoked.
3. As an additional remedy or in lieu of other remedies, the City Council may either before or after the institution of any other action or proceeding authorized by this section, institute any appropriate action or proceeding to restrain or prevent any violation of this Article or the City Council may direct the removal or abatement of any obstruction which violates this Article and direct the restoration of conditions existing before the placement of the unlawful obstruction.
4. The institution of an action for abatement or injunctive relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Article.

### B. Criminal Penalties

1. Any person controlling or managing any building or land where there is placed or there now exists anything in violation of this Article or any person who shall assist in the commission of any violation of this Article; or any person who shall build contrary to this Article after plans and specifications have been submitted to and approved by the Public Works Director; or any person who shall omit, neglect or refuse to do any act provided for in this Article shall be guilty of a misdemeanor.
2. Failure to correct an identified violation shall constitute a separate violation for each 10 days that such failure continues after written notice has been received.

## Article 9.4. Erosion & Sedimentation Control

### Sec. 9.4.1. Applicability

- A. This Article applies to all land-disturbing activities with the following exclusions:
1. Land-disturbing activities, including but not limited to, the breeding and grazing of livestock undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to:
    - a. Forages and sod crops, grains and feed crops, tobacco, cotton and peanuts;
    - b. Dairy animals and dairy products;
    - c. Poultry and poultry products;
    - d. Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats;
    - e. Bees and apiary products; and
    - f. Fur-producing animals.
  2. Land-disturbing activities undertaken on forest land for the production and harvesting of timber and timber products and conducted in accordance with Forest Practice Guidelines Related to Water Quality, Title 15A North Carolina Administrative Code, Subarticle 11, sections 1.010-.0209, as adopted by the North Carolina Department of Environment, Health and Natural Resources. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, Title 15A North Carolina Administrative Code, Subarticle 11, sections 1.010-.0209, the provisions of this Article shall apply to such activity and any related land-disturbing activity on the tract.
  3. Activities for which a permit is required under the Mining Act of 1972, N.C. Gen Stat., Chapter 74, Article 7.
  4. Land-disturbing activities undertaken for the duration of an emergency, activities essential to protection of human life.
- B. This Article does not apply to the following land-disturbing activities, as such activities are subject to the regulatory jurisdiction of the North Carolina Sediment Control Commission:

1. Activities conducted by the State of North Carolina;
2. Activities conducted by the United States;
3. Activities conducted by persons having the power of eminent domain;
4. Activities conducted by local governments, except that the City Council of the City of Raleigh hereby declares its intent that all of the departments and agencies of the City, its contractors and subcontractors shall also comply with the regulations set forth in this Article; and
5. Activities funded in whole or in part by the State of North Carolina or the United States.

### Sec. 9.4.2. Guidelines Incorporated

The Raleigh Guidelines for Land Disturbing Activities and amendments, on file in the City Clerk's Office, is adopted by reference as part of this UDO.

### Sec. 9.4.3. Objectives

- A. The objectives to be considered in planning, developing, implementing and maintaining adequate erosion and sedimentation controls and undertaking land-disturbing activities are to.
- 1. Identify Critical Areas**

Identify on-site areas which are subject to erosion and off-site areas which are vulnerable to damage from erosion or sedimentation and provide special attention to these areas.
  - 2. Limit Time of Exposure**

Limit time of exposure of all land-disturbing activities so that such activities are planned and conducted to limit uncovered soil surfaces to the shortest feasible time.
  - 3. Limit Exposed Areas**

Limit exposure of all land-disturbing activities so that these activities are planned and conducted to minimize the size of the uncovered area at any 1 time.
  - 4. Control Surface Water**

Control surface water runoff originating upgrade from uncovered soil surfaces to reduce erosion and sediment during the period of exposure.

## 5. Control Sedimentation

Control all land-disturbing activities so that such activities are planned and undertaken to prevent off-site sedimentation damage.

## 6. Manage Stormwater Runoff

Manage stormwater runoff when the increase in the velocity of stormwater runoff resulting from a land-disturbing activity can cause accelerated erosion at the point of discharge or receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and sedimentation of the receiving watercourse.

## 7. Control Operations in Lakes or Natural Watercourses

Control land-disturbing activities in connection with construction in, on, over or under a lake or natural watercourse so that such activities are planned and undertaken to minimize the extent and duration of disturbance of the lake or natural watercourse. Natural watercourses should be preserved.

- B. An erosion and sedimentation control plan may be disapproved if the plan fails to address the foregoing control objectives.
- C. When deemed necessary by the approving authority, a pre-construction conference shall be held.

## Sec. 9.4.4. Standards for Land-Disturbing Activity

No land-disturbing activity shall occur except in accordance with the following standards; wherever there is a conflict between two or more of these standards, the more stringent regulation is controlling.

### A. General Requirements

#### 1. Prior Plan Approval

- a. An erosion and sedimentation control plan must be approved by the Public Works Director at least 30 days prior to any land-disturbing activity of more than 12,000 square feet. This does not restrict the initiation of land-disturbing activities when the plan is approved and the permit is issued in less than 30 days from initial submission.
- b. In any Reservoir Watershed Protection Area or for relocation of any natural watercourse or when off-site sedimentation occurs, an approved

erosion and sedimentation control plan is required for land-disturbing activity in areas below 12,000 square feet.

- c. A surety equal to the cost of clearing, grubbing and reseeding a site shall be paid to the City prior to grading permit issuance. If the property is subject to a continuing violation the City may cash the surety.

#### 2. Protection of Property

Persons conducting land-disturbing activity must take all reasonable measures to protect all public and private property from damage caused by land-disturbing activity.

#### 3. NPDES Stormwater Permit for Construction Activity

Documentation required under the site National Pollutant Discharge Elimination System (NPDES) stormwater permit for construction activity shall be submitted to the City.

### B. Adequate Erosion Control Measures

Adequate erosion control measures shall be provided in accordance with Sec. 9.2.2.E.

### C. Design and Performance Standards and Guidelines

- 1. Copies of design and performance standards which are contained in Guidelines for Land-Disturbing Activities will be published by the City and placed on file in the Office of the City Clerk and the Public Works Director.
- 2. All erosion control plans, erosion control measures, ground covers, maintenance and calculations must be in accordance with the applicable Guidelines for Land-Disturbing Activities and State of North Carolina Erosion and Sediment Control Planning and Design Manual; in the event of any conflict, the more stringent regulation applies.

### D. Buffer Zones

#### 1. Buffer Zones Generally

- a. No land-disturbing activity during periods of construction or improvement to land are allowed in proximity to a lake or natural watercourse unless a buffer zone is provided along the watercourse to confine visible siltation within 25% of the buffer zone nearest the land-disturbing activity.

- b. Unless otherwise provided, the width of a buffer zone is measured from the edge of the watercourse to the nearest edge of the disturbed area.

**2. Buffer Zone Exceptions**

This section does not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over or under a lake or natural watercourse. No land-disturbing activity, except as permitted in *Sec. 9.2.3.B.* and *Sec. 9.2.3.C.* or *Article 9.5. Watershed Protection Areas*, shall take place:

- a. Within any watercourse buffer area unless it conforms to the requirements of *Sec. 9.2.3.B.* and *Sec. 9.2.3.C.* and the provisions of this Article; and
- b. Within any high-quality water zone unless it conforms to the requirements of *Article 9.5. Watershed Protection Areas* and the provisions of this Article.

**E. Graded Slopes and Fills**

The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed shall be provided with ground cover, devices or structures sufficient to restrain erosion. For all areas of moderate or steep slopes, temporary ground cover shall be provided if the slope has not been disturbed for a period of 14 days.

**F. Ground Cover**

- 1. Whenever a land-disturbing activity occurs, the person undertaking the activity shall install such ground cover, devices or structures sufficient to restrain erosion and retain sediment within the boundaries of the tract at all times.
- 2. Any portion of a site upon which further land-disturbing activity is not being undertaken shall be provided with ground cover sufficient to restrain erosion within 14 calendar days of temporarily or permanently suspending the land disturbing activity. Permanent ground cover shall be installed within 14 calendar days following completion of construction or development.

**G. Downstream Protection of Discharge Points and Receiving Watercourses**

**1. Permanent Protection**

Any area of a land-disturbing activity and all receiving watercourses or discharge point must be permanently protected from accelerated erosion caused by increased velocity of stormwater runoff resulting from a land-disturbing activity.

**2. Post Construction Velocity**

For any land-disturbing activity, the post construction velocity of the 10-year storm runoff in the receiving water-course to the discharge point does not exceed the greater of:

- a. The velocity of the 10-year storm runoff in the receiving watercourse prior to a development;
- b. The velocity specified according to the following table for a discharge point into a receiving watercourse with bare soil or rock bed or banks; or

Material	Maximum Permissible Velocities	
	(F.P.S.)	(M.P.S.)
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Course gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

- c. The velocity specified according to the following for a discharge point into a vegetated receiving watercourse.

Group No.	Vegetation	Depth of Flow (feet)	Maximum Permissible Velocity* (F.P.S.)
1	Bermudagrass	t1	4
		u1	6
2	Tall fescue	t1	3
	Reed canarygrass Kentucky bluegrass	u1	6
3	Grass and legumes, mixed	t1	3
	Weeping lovegrass	u1	4
4	Lespedeza, sericea	t1	2.5
	Red fescue, Red top	u1	2.5
5	Annuals:** Annual lespedeza (KOBÉ)	t1	2.5
	Sundagrass Small grain (rye, oats, barley): Ryegrass	u1	2.5

\*Do not use on channel slopes steeper than 10%, except for side slopes.

\*\*Annuals: use as temporary protection until permanent cover established.

### 3. General Velocity Standard

Any area of a land-disturbing activity or receiving watercourses subject to stormwater runoff velocities in excess of those specified in *Sec. 9.4.4.G.2.* above from accelerated erosion by provision of an erosion-resistant lining of vegetation in accordance with *Sec. 9.4.4.G.2.c.* above provided, armored, paved or otherwise nonvegetative watercourse lining shall be provided anywhere the velocity in the receiving watercourse exceeds *Sec. 9.4.4.G.2.c.* and the prior development velocity by 10%.

### 4. Critical Soils

When the following soils (as defined and described in the soil survey of Wake County North Carolina Soil Conservation Service, United States Department

of Agricultural, November, 1970) which are especially vulnerable to erosion from stormwater discharge from land-disturbing activities, occur between a point of stormwater discharge and the next confluence of concentrated stormwater runoff, such areas, on- or off-site shall be protected from accelerated erosion by diverting the stormwater discharge from those soil surfaces. The application of this section may not prevent discharge of stormwater from a land-disturbing activity site. Diversion may include the provision of piped, paved or armored storm drainage facilities:

- a. Applying sandy loam, 10% to 15% slopes (ApP);
- b. Cecil sandy loam, 10% to 15% slopes (CeD);
- c. Cecil sandy loam, 15% to 45% slopes (CeF);
- d. Creedmore sandy loam, 10% to 20% slopes (CrE);
- e. Enon fine sandy loam, 10% to 15% slopes (EnD2);
- f. Georgeville silt loam, 10% to 15% slopes (GeD2);
- g. Granville sandy loam, 10% to 15% slopes (GrD);
- h. Helena sandy loam, 10% to 15% slopes (HeD);
- i. Herndon silt loam, 10% to 25% slopes (HrD2);
- j. Herndon silt loam, 15% to 25% slopes (HrE);
- k. Lloyd loam, 10% to 15% slopes (LdD2);
- l. Louisburg loamy sand, 10% to 15% slopes (LoD);
- m. Made land, (Ma) greater than 4% slopes under actual field conditions;
- n. Madison sandy loam, 10% to 15% slopes (MdD2);
- o. Madison sandy loam, 15% to 25% slopes (MdE2);
- p. Mayodon sandy loam, 10% to 15% slopes (MfD2);
- q. Mayodan sandy loam, 15% to 25% slopes (MfE);
- r. Mayodan silt loam, 10% to 15% slopes (MyD);
- s. Pinkston sandy loam, 10% to 45% slopes (PkF);
- t. Wake, 10% to 25% slopes (WkE);
- u. Wedowee sandy loam, 10% to 15% slopes (WmD2);
- v. Wedowee sandy loam, 15% to 25% slopes (WmE);
- w. White Store sandy loam, 10% to 20% slopes (WsE);

- x. White Store clay loam, 2 to 15% slopes (WvD3);
- y. Wilkes, 10% to 20% slopes (WwE);
- z. Wilkes, 20% to 45% slopes (WwF); and
- aa. Wilkes, 15% to 25% slopes (WxE).

#### 5. Armored

Armored or otherwise non-vegetatively lined watercourse lining shall, in addition to the requirements of Sec. 9.4.4.G.3. above, be provided at the storm outlet and for those portions of the receiving watercourse which have undergone land-disturbing activity.

#### 6. Exception

Where piped, paved or armored storm drainage facilities connect to existing off-site piped, paved or armored storm drainage facilities or where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse, none of the foregoing provisions of this section shall apply.

#### 7. Equivalent Alternatives

The management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Alternatives include, but are not limited to:

- a. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
- b. Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- c. Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the discharge point. These may range from simple rip-rapped sections to complex structures; and
- d. Protect watercourses subject to accelerated erosion by improving cross-sections or providing erosion-resistant lining.

### H. Operations in Lakes or Natural Watercourses

1. Any land-disturbing activity in connection with construction in, on, over or under a lake or natural watercourse shall be planned and conducted in such a manner so as to minimize the extent and duration of disturbance of the stream channel and to prevent off-site sedimentation.
2. The relocation of a natural watercourse must meet the provisions of Sec. 9.4.4.G. and must minimize changes to the stream flow characteristics. The relocation of a natural watercourse may not occur in natural resource buffer yards of a -UWPOD, -FWPOD, -SWPOD, -MPOD or CM District.

### I. High-Quality-Water Zones

Within high-quality-water (HQW) zones the following additional design standards shall apply.

1. Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within an HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of both the Director of the Division of Land Resources of the North Carolina Department of Environment, Health and Natural Resources and the City Council.
2. Sediment basins shall be designed and constructed such that the basin will have a settling efficiency of at least 85% for the 40 micron size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures required by this Article.
3. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than 2 horizontal to 1 vertical if vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

### J. Keep Dirt and Mud Off Public Streets

The accumulation of more than 1/32 inch of dirt, mud or both on any public street, measured 6 feet from an entrance or exit of any land-disturbing activity, is prohibited.

**Sec. 9.4.5. Maintenance**

- A. During the development of a site, any person undertaking the land-disturbing activity must install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan, any provision of this Article, the North Carolina Sedimentation Pollution Control Act of 1973 or any order adopted pursuant to this Article or the Sedimentation Pollution Control Act.
- B. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.
- C. Whenever a permanent erosion and sediment control measure is washed out or is otherwise disabled the land owner or person in possession or control of the land shall replace the permanent erosion and sediment control measure within 15 working days or 30 calendar days, whichever period is shorter, unless a longer period of time is allowed in writing by the Public Works Director.
- D. When energy dissipators or other adequate erosion control measures serve more than 1 lot and are located on private property, they shall be located on a lot or lots which are as large or larger in size than the typical lot size within the development. There shall be recorded, after approval by the City, in the Wake County Registry a map of those lots and said map shall bear the following note: "The energy dissipator which controls stormwater velocities, stormwater retention or detention devices and other erosion control measured located on this lot are required to be maintained by the property owner or owners for that portion of the device on his lot in accordance with the requirements of the Raleigh City Code."
- E. Whenever stormwater control facilities serve more than 1 lot that are not accepted for maintenance by a governmental agency, prior to recording any lot served by the facility a maintenance covenant conforming with *Sec. 9.2.2.G.2.* shall be recorded with the local county register of deeds offices.

**Sec. 9.4.6. Land Disturbing Activity Permit & Control Plans Required**

- A. All land-disturbing activity permits shall be obtained from the Public Works Director.
- B. No person shall initiate any land-disturbing activity in a -FWPOD or -SWPOD in any watercourse natural buffer yard established pursuant to *Sec. 9.2.3.* in open space areas or to relocate any natural watercourse or in any other area if more than 12,000 square feet is to be uncovered unless, 30 or more days prior to the anticipated date for initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Public Works Director; but this shall not restrict the initiation of land-disturbing activities when the plan is approved and the permit is issued in less than 30 days from initial submission.
- C. No permit authorized by this UDO shall be issued until the boundaries encompassing a work site adjacent to any -FWPOD, -SWPOD, watercourse natural resource buffer, trout water buffer, watercourse natural resource buffers in a -MPOD or in a CM District, a high-quality water zone, any tree protection limits of any -MPOD, CM and -SHOD- or any area where vegetation is required to be maintained by a conditional use district or an approved site plan are clearly and accurately demarcated by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.
- D. The following table summarizes the plan approval process required:

Plan required to be prepared and filed with:	Size of Site		
	Less than 12,000 sq. ft.	Between 12,000 sq. ft. and 1 acre	Greater than 1 acre
City of Raleigh	No	Yes	Yes
Plan approval required prior to commencement of land disturbance	No	Yes	Yes

### Sec. 9.4.7. Additional Measures

- A. Whenever the City determines that off-site sedimentation may occur or is occurring as a result of a previous or on-going land-disturbing activity, despite application and maintenance of protective practices, the person undertaking the land-disturbing activity or the person responsible for maintenance will be required to and shall provide further adequate erosion control measures.
- B. The Public Works Director shall serve one or more of the following: any person undertaking a land-disturbing activity or the person responsible for maintenance or any of their appointed agents, written notice of violation with this section, specifying the noncompliance.
- C. Service shall be done in any of the following ways: Registered mail, certified mail return receipt requested, personal service or any other means authorized under N.C. Gen. Stat. §1A-1, Rule 4.
- D. The notice shall set forth the measures needed to come into compliance and shall state the time within which such compliance must be completed and warn that failure to correct the violation within the time period will result in the additional civil and criminal penalties for a continuing violation. Alternative equivalent measures may be submitted and, if approved by the City, must be completed within the time period stated for compliance.
- E. In determining the measures required and the time allowed for compliance, the Public Works Director shall take into consideration the economic feasibility, technology, quantity of work required and extent of damage; it shall then set reasonable and attainable time limits for compliance.
- F. The failure to comply with the notice or approved alternate equivalent measures within the time specified shall be a further violation of this UDO.

### Sec. 9.4.8. Appeals

- A. Except as provided in Sec. 9.4.8.D. below, the disapproval or required modification of any proposed erosion control plan or the refusal to issue a grading or other necessary permit by the City shall entitle the person who submitted the plan or applied for the permit to appeal this decision to the City Council.
- B. Appeal must be made in writing to the City Clerk and the Public Works Director within 15 days of written notice of disapproval or modification of plan or refusal to issue a permit.

- C. No appeal, other than to reduce the width of the natural resource buffer yards, that would be inconsistent with either the Standards of the Water Supply Watershed Act, N.C. Gen. Stat. §143-214.5 or the regulations adopted pursuant thereto shall be granted without the prior approval of the Environmental Management Commission.
- D. Upon receipt of an appeal, the City shall notify in writing and in sufficient time to allow a reasonable comment period, all other local governments having jurisdiction within the water supply watershed. Each year the City will transmit to the Environmental Management Commission a report on each appeal it receives.
- E. Hearings held pursuant to this section shall be held by the City Council within 30 days from the date the appeal is filed in the City Clerk's office. The City Council shall then render a decision no later than 21 days following said hearing.
- F. If the City Council upholds the disapproval or modification of a proposed soil erosion and sedimentation control plan following the hearing, the person submitting the plan shall within 15 days following the decision of the City Council be entitled to appeal the City Council's action to the Sedimentation Control Commission pursuant to Title 15 4B.0018(b) of the North Carolina Administration Code and N.C. Gen. Stat. §113A-61(c).
- G. In the event that an erosion control plan is disapproved, the City shall notify the Director of the Division of Land Resources of the North Carolina Department of Environment, Health and Natural Resources of such disapproval within 10 days. The City shall advise the applicant and the Public Works Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Sec. 9.4.8.A. through Sec. 9.4.8.C. above, the applicant may appeal the City's disapproval of the plan directly to the Sedimentation Control Commission.
- H. Judicial review of the final action of the erosion plan review committee of the Sedimentation Control Commission may be had in Superior Court of Wake County.

### Sec. 9.4.9. Compliance with Plan Requirements

- A. Any person who fails to file a plan in accordance with this UDO or who undertakes a land-disturbing activity except in accordance with provisions of a plan approved under this UDO shall be deemed in violation of this UDO.

- B. If it is determined that any person who undertakes a land-disturbing activity has failed to comply with the provisions of this Article, any regulation, rule or order, duly adopted pursuant to this Article, a notice of violation shall be served upon that person or his appointed agent. The initial civil penalty shall be assessed from the date of the violation.
- C. The notice shall be served by registered mail, certified mail return receipt requested or by any other means authorized under N.C. Gen. Stat. §1A-1, Rule 4. The notice shall specify a date by which the person must comply with this Article or any regulation, rule or order, duly adopted pursuant to this Article and inform the person of the actions that need to be taken to comply.
- D. In setting the time for compliance, the City shall take into consideration the quantity and complexity of the work, the consequences of delay, the effectiveness of action taken by the violator and the staff investigative costs, but in no event shall the specified time limits be more than 10 consecutive calendar days for compliance, except a shorter time period may be required by the City inspector for an imminent threat to either severely degrade a watercourse or cause severe off-site sedimentation.
- E. The notice shall state that failure to correct the violation within the specified time period will result in the additional civil and criminal penalties for a continuing violation.
- F. If, after the allotted time period has expired, corrective action has not been completed, the additional penalties shall be assessed from the date of initial violation and each day of continuing violation thereafter shall constitute a separate violation under this section.
- G. The notice shall explain the type of enforcement procedures which may be issued for violations. If the person undertaking the land-disturbing activity fails to comply within the time specified, such person shall be in further violation of this UDO.

### Sec. 9.4.10. Inspections

- A. Agents and officials of the Planning and Development Officer shall inspect the land-disturbing activities at reasonable times to ensure whether the activities are being conducted in accordance with the approved plan or the requirements of this UDO and to determine whether the measures implemented are effective in controlling accelerated erosion and preventing off-site sedimentation.

- B. Notice of this right to make inspections shall be included in the certificate of approval of each soil erosion and sedimentation control plan.
- C. No person shall obstruct, hamper, delay, resist or interfere with City agents or officials while in the process of carrying out their official duties.

### Sec. 9.4.11. Enforcement

#### A. Civil Penalties

1. Any person who violates any of the provisions of this Article, any regulation, rule or order duly adopted pursuant to this Article; or who undertakes or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required except in accordance with the terms, conditions and provisions of an approved plan shall be subject to the specific civil penalties set forth in *Sec. 9.4.11.F*.
2. The initial civil penalty shall be assessed from the date of the violation.
3. No penalty shall be assessed until the person alleged to be in violation or their appointed agent is served by registered mail, certified mail-return receipt requested, personal service notice of violation or any other means authorized under N.C Gen. Stat. §1A-1, Rule 4.
4. The notice shall specify a time by which the person must comply with this Article or any regulation, rule or order, duly adopted pursuant to this Article and inform the person of the actions that need to be taken to comply and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contest case under N.C. Gen. Stat. Chapter 150B, Article 3.
5. In setting the time for compliance, the City shall take into consideration the quantity and complexity of the work, the consequences of delay, the effectiveness of action taken by the violator and the staff investigative costs, but in no event shall the specified time limits be more than 10 consecutive calendar days for compliance, except a shorter time period may be required by the City inspector for an imminent threat to either severely degrade a watercourse or cause severe off-site sedimentation.
6. The notice shall state that failure to correct the violation within the specified time period will result in the additional civil and criminal penalties for a continuing violation. If, after the allotted time period has expired, corrective action has not been completed, the additional civil penalties shall

be assessed from the date of the initial violation. Each day of continuing violation thereafter shall constitute a separate violation.

7. The Revenue Collector of the City shall make written demand for payment upon the person in violation and shall set forth the amount of the penalty and the reason for assessing the penalty; the Revenue Collector, for continuous violations, shall send within each 10 day period additional notices to the person in violation.
8. Notice of the assessment shall be by registered or certified mail or any other means authorized under N.C. Gen. Stat. §1A-1, Rule 4. If the payment is not received within 30 days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City, in the appropriate division of the general court of justice in Wake County for recovery of the penalty. Such civil actions must be filed within 3 years of the date the assessment was due.
9. Civil penalties collected pursuant to this provision shall be used or disbursed as directed by law.

## **B. Stop-Work**

A stop-work order may be issued if a land-disturbing activity is being conducted or was conducted in violation of this Article, any regulation, rule or order duly adopted pursuant to this Article or is being undertaken or continued for which a soil erosion and sedimentation control plan is required except in accordance with the terms, conditions and provisions of an approved plan and that either:

1. The land-disturbing activity is being conducted without an approved plan, a permit or both;
2. The violation endangers life, property or both or that such endangerment is imminent; and
3. The land-disturbing activity is being conducted without installing all protective measures in accordance with the approved soil erosion and sedimentation control plan.
4. All stop-work orders shall be in writing served on and directed to the person doing the work and shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. The stop-work order shall be rescinded by written notice if all the violations for which the stop-work order were issued are corrected, no other

violations have occurred and all measures necessary to abate the violations have been taken.

## **C. Criminal Penalties**

Any person who knowingly or wilfully violates any provision of this Article, rule, regulation, order duly adopted or issued pursuant to this Article or who knowingly or willfully undertakes or continues a land-disturbing activity for which an erosion control plan is required, except in accordance with the terms, conditions and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days or by a fine not to exceed \$5,000 or both, in the discretion of the court.

## **D. Injunctive Relief**

1. Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate this Article or rule, regulation, order duly adopted or issued pursuant to this Article or any term, condition or provision of an approved soil erosion and sedimentation control plan, the City may, either before or after the institution of any other action or preceding authorized by this UDO, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Wake County.
2. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed or to prevent the threatened violation. The institution of an action for injunctive relief shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations to this UDO.

## **E. Restoration**

Any person who undertakes a land-disturbing activity and who fails to retain sediment generated by the activity, as required by N.C. Gen. Stat. §113A-57(3), is required to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this section.

## F. Specific Civil Penalties

Civil penalties for specific violations of this Article shall be assessed as follows:

1. Grading without a permit. \$5,000 per day for failure to secure a valid required grading permit prior to conducting a land-disturbing activity.
2. Grading beyond the limits of a grading plan. \$1,000 per day per 1/10 of a graded acre beyond the limits of an existing grading permit without the approval of an amended grading permit, but not to exceed \$7,000 per day.
3. Failure to protect. \$5,000 per day for failure to take all reasonable measures to protect public property or private property, from damage caused by the failure to retain sediment on-site for the design storm.
4. Failure to follow plan. \$3,000 per day for failure to conduct a land-disturbing activity in accordance with the provisions of an approved erosion and sedimentation control plan.
5. Failure to install devices. \$5,000 per day for failure, when more than 1 acre is disturbed, \$2,500 per day when 1 acre or less than 1 acre is disturbed, to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract(s) and prevent off-site sedimentation.
6. Failure to maintain permanent and/or temporary measures. \$2,500 per day for failure to maintain adequate erosion control measures.
7. Failure to properly maintain slopes and fills. \$2,500 per day for failure on graded slopes and fills to maintain an angle sufficient to retain vegetative cover or other adequate erosion control measures.
8. Failure to protect exposed slopes. \$2,500 per day for failure, within 15 working days or 30 calendar days of completion of any phase of grading, whichever period is shorter, to plant or otherwise provide exposed, graded slopes or fills with ground cover, devices or structures sufficient to restrain erosion.
9. Failure to provide adequate cover. \$2,500 per day for failure on a tract when more than 1 acre is disturbed, \$1,200 dollars per day when 1 acre or less than 1 acre is disturbed, to plant or otherwise provide ground cover sufficient to restrain erosion within 15 working days or 60 calendar days, whichever period is shorter, following completion of construction or development.
10. Failure to revise plan. \$2,500 per day for failure to file an acceptable, revised

erosion and sedimentation control plan within the established deadline after being notified of the need to do so.

11. Failure to correct a violation after notice. \$5,000 dollars per day for failure to correct a violation within the time limitations established in a notice of violation.
12. Failure to obey a stop-work order. \$5,000 per day for a violation of a stop-work order.
13. Any other action or failure to act that constitutes a violation of this Article. \$2,500 per day for any other action or failure to act that constitutes a violation of this Article.
14. Failure to keep dirt and mud off public streets. \$1,000 per day for failure to prevent the accumulation of dirt, mud or both on public streets in violation of this Article plus 1 dollar per every 6 linear feet of street if cleaned by the City, its employees or its contractors.
15. An additional civil penalty of \$1,000 per day shall be charged to any person assessed a civil penalty for any violation of this Article within the prior 2 years. No initial civil penalty shall exceed \$7,500; this limitation shall be inapplicable to continuous violations.

### Sec. 9.4.12. Revisions

The City of Raleigh shall incorporate revisions required by the Sedimentation Control Commission within 8 months following receipt of the required revisions. If standards and provisions of this UDO currently meet or exceed the required revisions, the Sedimentation Control Commission must be notified within 90 days of their receipt.

## Article 9.5. Watershed Protection Areas

### Sec. 9.5.1. Urban Watershed Protection Overlay District (-UWPOD)

#### A. Natural Resource Buffer Yards

Natural resource buffer yards consistent with Sec. 9.2.3. must be established along all perennial watercourses.

#### B. Impervious Surface Coverage

1. All lots or portions of lots in existence prior to April 19, 2005 or lots established outside the subdivision process after that date, no additional impervious surface may be added to the property, which would result in greater coverage by impervious surface than allowed by the following table:

Area	No Stormwater Control Measures	Retention, Detention or Capture First 1/2 Inch of Runoff
Primary water supply watershed protection areas	24% or 2 units of a single-unit living per acre or 20,000 square foot lot.	50%
Secondary water supply watershed protection areas	24% or 2 units of a single-unit living per acre or 20,000 square foot lot or 3 dwellings per acre or 36% built upon area for projects without curb and gutter street systems.	70%

2. Land will be deemed compliant with the intensity requirements if the intensity of all existing development at the time of reclassification does not exceed the density requirement when densities are averaged throughout the area.
3. Impervious surfaces include all proposed streets within the development approved after April 19, 2005 and all impervious surfaces on any lot and common area.
4. Calculation of the area of the development includes all lots, street rights-

of-way and common areas within the watershed. Calculation of the area of the development must exclude any widening of existing street rights-of-way, existing street rights-of-way and new street rights-of-way reserved in accordance with the Roadway Corridor Official Map Act, N.C. Gen. Stat. Chapter 136 Article 2E.

5. Redevelopment is permitted when the activity does not result in a net increase of impervious surface and provides equal or greater stormwater control than the previous development and substitutions of impervious surfaces is done in accordance with Sec. 10.3.5.A.
6. Any lot of record existing prior to October 12, 2008, that does not conform to the area or impervious surface coverage regulations of this section and which contains a detached house is exempt from the regulations of this overlay district, except there may be no exemption if the lot is contiguous to any other lot owned by the same person. Additions and expansions to existing structures must comply with the requirements of this overlay district, however, impervious surfaces existing prior to the initial application of these regulations must not be included in the impervious surface coverage calculations.

#### C. Required Stormwater Measures

##### 1. Stormwater Retention, Detention and Capture

Within any primary or secondary watershed protection area, lots which are connected to both City water and sewer utilities and have a total maximum impervious surface coverage of more than 24%; provided that the first ½ inch of stormwater which directly or indirectly runs off the surfaces in excess of 24%, from the lot is:

- a. Retained for either infiltration into the soil or for evaporation into the air;
- b. Detained for at least a 12-hour period; or
- c. Captured by an approved stormwater treatment device.

##### 2. Stormwater Runoff From Streets

Where impervious surface coverage is greater than 24%, the first inch of stormwater which directly or indirectly runs off any street must be contained within the development in accordance with the retention or detention or capture methods set forth above.

#### D. Maintenance of Stormwater Control Measures

When retention devices, detention devices or wet ponds serve more than 1 lot and are located on private property, a maintenance covenant which complies with Sec. 9.2.2.G.2. for sharing the maintenance costs must be recorded. After approval by the City, a map must be recorded in the Wake County Registry, showing the location of the retention device, detention device or wet pond on the lot; the map must bear the following note: "The stormwater control facilities, which serve more than 1 lot, that are not accepted for maintenance by a governmental agency are required by the Raleigh City Code to be owned and maintained by a property owners association for which all lot owners shall be a member."

#### E. Exemptions

1. The impervious surface coverage limitations and stormwater retention, detention and capture requirements within the secondary water supply watershed protection area of the -UWPOD are inapplicable to any street, right-of-way, lot or improvement if its stormwater runoff flows by gravity to a watercourse located outside the overlay district. All gravity flow drainage plans shall be approved by the Stormwater Utility Division of the Public Works Department.
2. Any lot of record existing prior to October 12, 2008, that does not conform to the area or impervious coverage regulations contained in the schedule of Maximum Impervious Surface Limits in a -UWPOD and Required Measures and which lot contains a dwelling used for single-unit living is exempt from the regulations of this overlay district, except there shall be no exemption if the lot is contiguous to any other lot owned by the same person. Additions and expansions to existing structures shall comply with the requirements of this overlay district, however, impervious surfaces existing prior to the initial application of these regulations shall not be included in the impervious surface coverage calculations.
3. For all lots or portions of lots in existence prior to October 12, 2008 or lots established outside the subdivision process after that date, the impervious surface coverage limitations and stormwater retention, detention and capture requirements within the -UWPOD are inapplicable to any single development that disturbs less than 1 acre.

## Sec. 9.5.2. Falls Watershed Protection Overlay District (-FWPOD)

### A. Natural Resource Buffer Yards

Natural resource buffer yards consistent with Sec. 9.2.3. must be established.

### B. Impervious Surface Coverage

1. All lots or portions of lots in existence prior to March 1, 1988 or lots established outside the subdivision process after that date, no additional impervious surface may be added to the property which would result in greater coverage by impervious surface than allowed by the following table:

Area	No Stormwater Control Measures	Retention, Detention or Capture First Half Inch of Runoff	Wet Ponds Capturing First Inch of Rainfall
Primary water supply watershed protection areas	6%; or 3,500 sq. ft. if this is not more than 12%	N/A	N/A
Secondary water supply watershed protection areas not connected to both City water and sewer utilities	12%; or 3,500 sq. ft. if this is not more than 24%	N/A	N/A
Secondary water supply watershed protection areas with connections to both City water and sewer utilities	12%; or 3,500 sq. ft. if this is not more than 24%	24%	30% or 3,500 sq. ft. if this is not more than 50%; 70% in areas designated in the Comprehensive Plan for higher impervious surfaces

2. Impervious surfaces include all proposed public and private streets within the development approved after June 20, 1993 and all impervious surfaces on any lot and common area.

3. Calculation of the area of the development includes all subdivision lots, new street rights-of-way established after June 20, 1993 and common areas within the watershed. Calculation of the area of the development excludes any widening of existing street rights-of-way, existing street rights-of-way and new street rights-of-way reserved in accordance with the Roadway Corridor Official Map Act, N.C. Gen. Stat. Chapter 136 Article 2E.
4. All lots established after June 20, 1993 must comply with the impervious surface coverage standards of the Article.
5. Substitutions of impervious surfaces done in accordance with Sec. 10.3.5.A. are allowed.

### C. Required Stormwater Measures

#### 1. Stormwater Retention, Detention and Capture

- a. Within any secondary watershed protection area, lots which are connected to both City water and sewer utilities and have a total maximum impervious surface of more than 3,500 square feet may have an impervious coverage of more than 12% and less than 24%; provided that the first ½ inch of stormwater which directly or indirectly runs off the surfaces in excess of 12%, from the lot is:
  - i. Retained for either infiltration into the soil or for evaporation into the air;
  - ii. Detained for at least a 12-hour period; or
  - iii. Captured by an approved stormwater treatment device.
- b. Additional impervious surface coverage is allowed in secondary reservoir watershed protection areas when the first inch of rainfall (including the amount from the first 24% impervious surface coverage) is captured by a wet pond.

#### 2. Stormwater Runoff From Streets

- a. Where impervious surface coverage is equal to or less than 12% in any primary water supply watershed protection area or equal to or less than 24% in any secondary water supply watershed protection area, the first ½ inch of stormwater which runs off any street must be contained within the development capture methods set forth in Sec. 9.5.2.C.1. above.

- b. Where impervious surface coverage is greater than 12% in any primary water supply watershed protection area or greater than 24% in any secondary water supply watershed protection area, the first inch of rainfall from streets must be captured in a wet pond in accordance with Sec. 9.5.2.C.3. below.

### 3. Wet Ponds

- a. When impervious surfaces exceed 24% in secondary reservoir watershed protection areas, the first inch of rainfall within an entire development shall be captured in a wet pond of standing water.
- b. Except where located in areas designated in the Comprehensive Plan for higher impervious surfaces, the maximum percent of impervious surface coverage in those portions of the secondary reservoir watershed protection areas connected to both City water and sewer utilities shall not exceed 30% unless the impervious surface coverage is 3,500 square feet per lot or less; in such instances the maximum impervious surface coverage allowed shall not exceed 50%.
- c. When the development is located in portions of secondary reservoir watershed protection areas that are specifically designated in the Comprehensive Plan for higher impervious surfaces, the maximum impervious surface coverage may not exceed 70%; provided that the property is connected to both City water and sewer utilities. No more than 5% of the land area within any 1 secondary reservoir watershed protection area may be developed with an impervious surface coverage in excess of 50% unless approved by the North Carolina Environmental Management Commission.
- d. The design of wet ponds must meet the specifications and requirements found within the Stormwater control and Watercourse Buffer Manual.

## D. Nitrogen and Phosphorous Loading

### 1. New Development

#### a. Applicability

- i. The following regulations apply to new development and expansions to impervious surfaces occurring on or after June 1, 2011.

- ii. Substitutions of impervious surface done in accordance with Sec. 10.3.5.A. are allowed provided there is no net increase in impervious surface and equal or greater stormwater control is provided.
- iii. Lots and structures existing prior to June 1, 2011 are not to be considered nonconforming solely because of the application of these regulations. Additions and expansions to existing impervious surfaces, uses and structures must comply with the requirements of these regulations; however, impervious surfaces existing prior to the initial application of these regulations are not to be included in the nitrogen and phosphorous loading calculations.
- iv. All stormwater management plans required for new development on properties located within a -FWPOD must comply with the following regulations.

#### b. Requirement

- i. Nitrogen and phosphorous loads contributed by the proposed new development activity may not exceed the unit-area mass loading rates as follows:
  - a) Nitrogen:  $2\frac{2}{10}$  pounds per acre per year; and
  - b) Phosphorus:  $\frac{33}{100}$  of a pound per acre per year.
- ii. The developer's stormwater management plan must determine the load reductions necessary to comply with the above maximums by utilizing the loading calculation method prescribed in the Stormwater Control and Watercourse Buffer Manual.
- iii. Developments that comply with the watershed stormwater control master plan approved for its watershed protection area are exempted from the requirements of this section. Compliance with watershed stormwater control master plan must include:
  - a) The installation within the development of all stormwater control measures shown on the watershed stormwater control master plan;
  - b) The payment of fees in lieu of installation, when allowed by the State; and
  - c) The payment of any applicable drainage fees if the facilities prescribed by the master plan are constructed.

**c. Option for Offsetting a Portion of Nutrient Loading**

- i. The developer shall have the option of offsetting a portion of the nitrogen and phosphorous load by implementing or funding off-site management measures. Prior to utilizing any off-site option, the developer's stormwater management plan must implement structural stormwater controls that attain a minimum of 60% reduction in increased post-construction nitrogen loading rate and a minimum of 60% in increased post-construction phosphorus loading rate on-site and, when applicable, implementing all engineered stormwater controls for compliance with National Pollutant Discharge Elimination System requirements and any other State-mandated stormwater regulation.
- ii. Offsetting measures provided off-site by the developer must achieve at least equivalent reductions in nitrogen and phosphorus loading as needed on-site to comply with the maximum loading rates specified above. Offsetting measures provided off-site must meet the requirements of State Administrative Rule 15A NCAC 02B .0282, which may include the following:
  - a) Payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that program;
  - b) A City approved offset program prescribed in the Raleigh Stormwater Control and Watercourse Buffer Manual; or
  - c) An offset program proposed by the property owner which is located within the applicable reservoir watershed protection area basin subject to final approval by the Public Works Director.

**d. Maintenance of Stormwater Control Measures and Devices**

The land owner or person in possession or control of the land must maintain, repair, reconstruct, replace and make payments for all stormwater control measures and devices and open space areas required by the stormwater control plan in accordance with *Sec. 9.2.2.G.*, unless those measures, devices and open space areas are accepted for maintenance by a governmental agency.

**E. Maintenance of Stormwater Control Measures**

1. When retention devices, detention devices or wet ponds serve more than 1 lot and are located on private property, a maintenance covenant which complies with *Sec. 9.2.2.G.2.* for sharing the maintenance costs must be recorded.
2. After approval by the City, a map must be recorded in the Wake County Registry, showing the location of the retention device, detention device or wet pond on the lot; the map must bear the following note: "The stormwater control facilities, which serve more than 1 lot, that are not accepted for maintenance by a governmental agency are required by the Raleigh City Code to be owned and maintained by a property owners association for which all lot owners shall be a member."

**F. Exemptions**

1. The impervious surface coverage limitations and stormwater retention, detention and capture requirements within the secondary watershed protection area of a -FWPOD are inapplicable to any street, right-of-way, lot or improvement where its stormwater runoff flows by gravity to a watercourse located outside the overlay district. All gravity flow drainage plans must be approved by the Soil Conservation Division of the City.
2. The impervious surface coverage limitations and stormwater retention, detention and capture requirements are inapplicable to a lot separated by deed conveyance prior to June 20, 1993; provided that, the lot is developed for single-unit living with no more than 3,500 square feet of impervious surfaces and the owner does not own any other contiguous real property which could be recombined.

**G. Forestation of Lots**

Except as otherwise provided, every lot located within a -FWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area in accordance with *Sec. 9.1.9.*

### Sec. 9.5.3. Swift Creek Watershed Protection Overlay District (-SWPOD)

#### A. Natural Resource Buffer Yards

Natural resource buffer yards consistent with Sec. 9.2.3. must be established.

#### B. Impervious Surface Coverage

1. All lots or portions of lots in existence prior to March 1, 1988 or lots established outside the subdivision process after that date, no additional impervious surface may be added to the property which would result in greater coverage by impervious surface than allowed by the following table:

Area	No Stormwater Control Measures	Retention, Detention or Capture First Half Inch of Runoff	Wet Ponds Capturing First Inch of Rainfall
Primary water supply watershed protection areas	6%; or 3,500 sq. ft. if this is not more than 12%	N/A	N/A
Secondary water supply watershed protection areas not connected to both City water and sewer utilities	12%; or 3,500 sq. ft. if this is not more than 24%	N/A	N/A
Secondary water supply watershed protection areas with connections to both City water and sewer utilities	12%; or 3,500 sq. ft. if this is not more than 24%	24%	30% or 3,500 sq. ft. if this is not more than 50%; 70% in areas designated in the Comprehensive Plan for higher impervious surfaces

2. Impervious surfaces include all proposed public and private streets within the development approved after June 20, 1993 and all impervious surfaces on any lot and common area.

3. Calculation of the area of the development includes all subdivision lots, new street rights-of-way established after June 20, 1993 and common areas within the watershed. Calculation of the area of the development excludes any widening of existing street rights-of-way, existing street rights-of-way and new street rights-of-way reserved in accordance with the Roadway Corridor Official Map Act, N.C. Gen. Stat. Chapter 136 Article 2E.
4. All lots established after June 20, 1993 must comply with the impervious surface coverage standards of the Article.
5. Substitutions of impervious surfaces done in accordance with Sec. 10.3.5.A. are allowed.

#### C. Required Stormwater Measures

##### 1. Stormwater Retention, Detention and Capture

- a. Within any secondary watershed protection area, lots which are connected to both City water and sewer utilities and have a total maximum impervious surface of more than 3,500 square feet may have an impervious coverage of more than 12% and less than 24%; provided that the first ½ inch of stormwater which directly or indirectly runs off the surfaces in excess of 12%, from the lot is:
  - i. Retained for either infiltration into the soil or for evaporation into the air;
  - ii. Detained for at least a 12-hour period; or
  - iii. Captured by an approved stormwater treatment device.
- b. Additional impervious surface coverage is allowed in secondary reservoir watershed protection areas when the first inch of rainfall (including the amount from the first 24% impervious surface coverage) is captured by a wet pond.

##### 2. Stormwater Runoff From Streets

- a. Where impervious surface coverage is equal to or less than 12% in any primary water supply watershed protection area or equal to or less than 24% in any secondary water supply watershed protection area, the first ½ inch of stormwater which runs off any street must be contained within the development capture methods set forth in Sec. 9.5.3.C.1. above.

- b. Where impervious surface coverage is greater than 12% in any primary water supply watershed protection area or greater than 24% in any secondary water supply watershed protection area, the first inch of rainfall from streets must be captured in a wet pond in accordance with Sec. 9.5.3.C.3. below.

### 3. Wet Ponds

- a. When impervious surfaces exceed 24% in secondary reservoir watershed protection areas, the first inch of rainfall within an entire development shall be captured in a wet pond of standing water.
- b. Except where located in areas designated in the Comprehensive Plan for higher impervious surfaces, the maximum percent of impervious surface coverage in those portions of the secondary reservoir watershed protection areas connected to both City water and sewer utilities shall not exceed 30% unless the impervious surface coverage is 3,500 square feet per lot or less; in such instances the maximum impervious surface coverage allowed shall not exceed 50%.
- c. When the development is located in portions of secondary reservoir watershed protection areas that are specifically designated in the Comprehensive Plan for higher impervious surfaces, the maximum impervious surface coverage may not exceed 70%; provided that the property is connected to both City water and sewer utilities. No more than 5% of the land area within any 1 secondary reservoir watershed protection area may be developed with an impervious surface coverage in excess of 50% unless approved by the North Carolina Environmental Management Commission.
- d. The design of wet ponds must meet the specifications and requirements found within the Stormwater Design Manual.

## D. Nitrogen and Phosphorous Loading

### 1. New Development

#### a. Applicability

- i. The following regulations apply to new development and expansions to impervious surfaces occurring on or after June 1, 2011.

- ii. Substitutions of impervious surface done in accordance with Sec. 10.3.5.A. are allowed provided there is no net increase in impervious surface and equal or greater stormwater control is provided.
- iii. Lots and structures existing prior to June 1, 2011 are not to be considered nonconforming solely because of the application of these regulations. Additions and expansions to existing impervious surfaces, uses and structures must comply with the requirements of these regulations; however, impervious surfaces existing prior to the initial application of these regulations are not to be included in the nitrogen and phosphorous loading calculations.
- iv. All stormwater management plans required for new development on properties located within a -SWPOD must comply with the following regulations.

#### b. Requirement

- i. Nitrogen and phosphorous loads contributed by the proposed new development activity may not exceed the unit-area mass loading rates as follows:
  - a) Nitrogen:  $2\frac{2}{10}$  pounds per acre per year; and
  - b) Phosphorus:  $\frac{33}{100}$  of a pound per acre per year.
- ii. The developer's stormwater management plan must determine the load reductions necessary to comply with the above maximums by utilizing the loading calculation method prescribed in the Stormwater Control and Watercourse Buffer Manual.
- iii. Developments that comply with the watershed stormwater control master plan approved for its watershed protection area are exempted from the requirements of this section. Compliance with watershed stormwater control master plan must include:
  - a) The installation within the development of all stormwater control measures shown on the watershed stormwater control master plan;
  - b) The payment of fees in lieu of installation, when allowed by the State; and
  - c) The payment of any applicable drainage fees if the facilities prescribed by the master plan are constructed.

**c. Option for Offsetting a Portion of Nutrient Loading**

- i. The developer shall have the option of offsetting a portion of the nitrogen and phosphorous load by implementing or funding off-site management measures. Prior to utilizing any off-site option, the developer's stormwater management plan must implement structural stormwater controls that attain a minimum of 60% reduction in increased post-construction nitrogen loading rate and a minimum of 60% in increased post-construction phosphorus loading rate on-site and, when applicable, implementing all engineered stormwater controls for compliance with National Pollutant Discharge Elimination System requirements and any other State-mandated stormwater regulation.
- ii. Offsetting measures provided off-site by the developer must achieve at least equivalent reductions in nitrogen and phosphorus loading as needed on-site to comply with the maximum loading rates specified above. Offsetting measures provided off-site must meet the requirements of State Administrative Rule 15A NCAC 02B .0282, which may include the following:
  - a) Payments to the City of Raleigh to implement the City-approved offset program;
  - b) A City approved offset program prescribed in the Raleigh Stormwater Control and Watercourse Buffer Manual; or
  - c) An offset program proposed by the property owner which is located within the applicable reservoir watershed protection area basin subject to final approval by the Public Works Director.

**d. Maintenance of Stormwater Control Measures and Devices**

The land owner or person in possession or control of the land must maintain, repair, reconstruct, replace and make payments for all stormwater control measures and devices and open space areas required by the stormwater control plan in accordance with *Sec. 9.2.2.G.*, unless those measures, devices and open space areas are accepted for maintenance by a governmental agency.

**E. Maintenance of Stormwater Control Measures**

1. When retention devices, detention devices or wet ponds serve more than 1 lot and are located on private property, a maintenance covenant which complies with *Sec. 9.2.2.G.2.* for sharing the maintenance costs must be recorded.
2. After approval by the City, a map must be recorded in the Wake County Registry, showing the location of the retention device, detention device or wet pond on the lot; the map must bear the following note: "The stormwater control facilities, which serve more than 1 lot, that are not accepted for maintenance by a governmental agency are required by the Raleigh City Code to be owned and maintained by a property owners association for which all lot owners shall be a member."

**F. Exemptions**

1. The impervious surface coverage limitations and stormwater retention, detention and capture requirements within the secondary watershed protection area of a -SWPOD are inapplicable to any street, right-of-way, lot or improvement where its stormwater runoff flows by gravity to a watercourse located outside the overlay district. All gravity flow drainage plans must be approved by the Soil Conservation Division of the City.
2. The impervious surface coverage limitations and stormwater retention, detention and capture requirements are inapplicable to a lot separated by deed conveyance prior to June 20, 1993; provided that, the lot is developed for single-unit living with no more than 3,500 square feet of impervious surfaces and the owner does not own any other contiguous real property which could be recombined.

**G. Forestation of Lots**

Except as otherwise provided, every lot located within a -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area in accordance with *Sec. 9.1.9.*

### Sec. 9.5.4. Inspections

- A. Agents and officials of the City shall have the right to inspect sites subject to the requirements of this Article to determine whether the measures, devices and open space areas required by this Article to control the rate and quality of stormwater are installed and operating as approved, whether such measures, devices and open space areas are being maintained and to determine if any encroachments or activities in any watercourse buffer area not permitted by this Article have occurred.
- B. Notice of this right to make inspections shall be included in the stormwater control and watercourse buffer permits.
- C. No person shall obstruct, hamper, delay, resist or interfere with City agents or officials while in the process of carrying out their official duties.

### Sec. 9.5.5. Enforcement

#### A. Civil Penalties

1. Any person who violates any of the provisions of this Article, any regulation, rule or order duly adopted pursuant to this Article; or who undertakes or continues any activity for which a stormwater control plan is required except in accordance with the terms, conditions and provisions of an approved plan shall be subject to the specific civil penalties set forth in Sec. 9.5.5.F.
2. The penalties shall be assessed by the Public Works Department. The initial civil penalty shall be assessed from the date of the violation. No penalty shall be assessed until the person alleged to be in violation is served by registered mail, certified mail-return receipt requested, personal service notice of violation or any other means authorized under N.C. Gen. Stat. §1A-1, Rule 4.
3. The notice shall specify a time by which the person must comply with this Article or any regulation, rule or order, duly adopted pursuant to this Article and inform the person of the actions that need to be taken to comply.
4. In setting the time for compliance, the City shall take into consideration the quantity and complexity of the work, the consequences of delay, the effectiveness of action taken by the violator and the staff investigative costs, but in no event shall the specified time limits be more than 10 calendar days for compliance, except a shorter time period may be required by the City inspector for an imminent threat to either severely degrade a watercourse or cause severe runoff.

5. The notice shall state that failure to correct the violation within the specified time period will result in the additional civil and criminal penalties for a continuing violation. If, after the allotted time period has expired, corrective action has not been completed, the additional civil penalties shall be assessed from the date of the initial violation. Each day of continuing violation thereafter shall constitute a separate violation.
6. The Public Works Department shall make written demand for payment upon the person in violation and shall set forth the amount of the penalty and the reason for assessing the penalty. Notice of the assessment shall be by registered or certified mail or any other means authorized under N.C. Gen. Stat. §1A-a, Rule 4. If the payment is not received within 30 days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City, in the appropriate division of the general court of justice in Wake County for recovery of the penalty. Such civil actions must be filed within 3 years of the date the assessment was due.

#### B. Stop-Work

1. A stop-work order may be issued if an activity is being conducted or was conducted in violation of this Article, any regulation, rule or order duly adopted pursuant to this Article or is being undertaken or continued for which a stormwater control plan is required except in accordance with the terms, conditions and provisions of an approved plan and that either:
  - a. The activity is being conducted without an approved plan, a permit or both;
  - b. The violation endangers life, property or both or that such endangerment is imminent; and
  - c. The activity is being conducted without installing all protective measures and devices in accordance with the approved stormwater control plan.
2. All stop-work orders shall be in writing served on and directed to the person doing the work and shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed.
3. The stop-work order shall be rescinded by written notice if all the violations for which the stop-work order were issued are corrected, no other violations have occurred and all measures necessary to abate the violations have been taken.

### C. Criminal Penalties

1. Any person who knowingly or willfully violates any provision of this Article, rule, regulation, order duly adopted or issued pursuant to this Article or who knowingly or willfully undertakes or continues an activity for which a stormwater control plan is required, except in accordance with the terms, conditions and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days or by a fine not to exceed \$5,000 or both, in the discretion of the court.

### D. Injunctive Relief

1. Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate this Article, rule, regulation or order duly adopted or issued pursuant to this Article or any term, condition or provision of an approved stormwater control plan, the City may, either before or after the institution of any other action or proceeding authorized by this UDO, institute a civil action to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Wake County.
2. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed or to prevent the threatened violation. The institution of an action for injunctive relief under this Subsection shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations to this UDO.

### E. Restoration

1. Any person who violates any of the provisions of this Article, any regulation, rule or order duly adopted pursuant to this Article; or who undertakes or continues an activity except in accordance with the terms, conditions and provisions of an approved stormwater control plan is required to restore the waters, land and vegetation affected by the violation so as to minimize detrimental effects.
2. The restoration plan shall first be approved by the City. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this section.

### F. Specific Civil Penalties

Civil penalties for specific violations of this Article shall be assessed as follows.

#### 1. Work without a Permit

\$5,000 per day for failure to secure a valid required stormwater control permit and/or watercourse buffer permit prior to conducting any land-disturbing activity, any development or expansion, any placement of impervious surfaces or any new use or construction.

#### 2. Failure to Follow Plan

\$3,000 per day for failure to conduct a land-disturbing activity, placement of impervious surfaces, development or expansion in accordance with the provisions of an approved stormwater control plan.

#### 3. Failure to Maintain Stormwater Control Facilities

\$2,500 per day for failure to maintain stormwater control facilities.

#### 4. Failure to File Inspections Report

\$2,500 per day for failure to file required inspection report.

#### 5. Failure to Submit As-Built Plans

\$2,500 per day for failure to submit required as-built plans.

#### 6. Failure to Certify

\$2,500 per day for failure to certify that installed stormwater measures and devices are in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual and City approved the stormwater control plan, including modifications thereto approved by the City.

#### 7. Falsified Certification

\$3,000 for making a falsified certification.

#### 8. Failure to Record

\$2,500 per day for failure to record or timely record with the local register of deeds required plats identifying stormwater control facilities or required maintenance covenants or required escrow agreements.

**9. Failure to Revise Plan**

\$2,500 per day for failure to file an acceptable, revised stormwater control plan within the established deadline after being notified of the need to do so.

**10. Failure to Correct a Violation**

\$5,000 per day for failure to correct a violation within the time limitations established in a notice of violation.

**11. Failure to Obey a Stop-Work Order**

\$5,000 per day for a violation of a stop-work order.

**12. Any other Action**

\$2,500 per day for any other action or failure to act that constitutes a violation of the Article.

**13. Repeated Violation**

An additional civil penalty of \$1,000 per day shall be charged to any person assessed a civil penalty for any violation of this Article within the prior 2 years. No initial civil penalty shall exceed \$5,000; this limitation shall be inapplicable to continuous violations.

# CHAPTER 10. ADMINISTRATION

## Article 10.1. Review Bodies 10 – 2

Sec. 10.1.1. City Council .....	10 – 2
Sec. 10.1.2. Planning Commission.....	10 – 2
Sec. 10.1.3. Board of Adjustment .....	10 – 2
Sec. 10.1.4. Historic Development Commission .....	10 – 4
Sec. 10.1.5. Appearance Commission .....	10 – 7
Sec. 10.1.6. Open Meeting Requirements .....	10 – 7
Sec. 10.1.7. Planning and Development Officer .....	10 – 8
Sec. 10.1.8. Summary of Review Authority.....	10 – 9

## Article 10.2. Review Procedures 10 – 10

Sec. 10.2.1. Common Review Procedures.....	10 – 10
Sec. 10.2.2. Comprehensive Plan Amendment .....	10 – 15
Sec. 10.2.3. UDO Text Amendment .....	10 – 17
Sec. 10.2.4. Rezoning.....	10 – 19
Sec. 10.2.5. Subdivision Review .....	10 – 25
Sec. 10.2.6. Non-Subdivision Final Plat and Recorded Instruments .....	10 – 31
Sec. 10.2.7. Plot Plan Review .....	10 – 34
Sec. 10.2.8. Site Plan Review .....	10 – 36
Sec. 10.2.9. Special Use Permit .....	10 – 40
Sec. 10.2.10. Variance .....	10 – 42
Sec. 10.2.11. Appeal of an Administrative Decision .....	10 – 44
Sec. 10.2.12. Common Signage Plan .....	10 – 46

Sec. 10.2.13. Temporary Use Permit .....	10 – 47
Sec. 10.2.14. Written Interpretation .....	10 – 48
Sec. 10.2.15. Certificate of Appropriateness .....	10 – 49
Sec. 10.2.16. Historic Landmark Designation .....	10 – 53
Sec. 10.2.17. Administrative Alternate .....	10 – 56
Sec. 10.2.18. Design Adjustment.....	10 – 57
Sec. 10.2.19. Vested Rights .....	10 – 58

## Article 10.3. Nonconformities 10 – 60

Sec. 10.3.1. In General.....	10 – 60
Sec. 10.3.2. Nonconforming Uses .....	10 – 60
Sec. 10.3.3. Nonconforming Principal Structures .....	10 – 62
Sec. 10.3.4. Nonconforming Site Elements .....	10 – 63
Sec. 10.3.5. Nonconforming Lots of Record .....	10 – 64
Sec. 10.3.6. Special Use Permits for Nonconformities .....	10 – 65

## Article 10.4. Enforcement 10 – 67

Sec. 10.4.1. Violations and Violators.....	10 – 67
Sec. 10.4.2. Civil Penalty .....	10 – 67
Sec. 10.4.3. Administrative Fee .....	10 – 68

## Article 10.1. Review Bodies

### Sec. 10.1.1. City Council

#### A. General Authority

1. The City Council may exercise any and all powers prescribed by North Carolina general and local law, including the City Charter, and as described in this UDO and in the City Code.
2. The City Council shall approve the rules of procedure and bylaws for all City Boards and Commissions.
3. The City Council may adopt rules of ethics for all City Boards and Commissions.

#### B. Specific Approval Authority

The City Council is responsible for final action regarding:

1. Comprehensive Plan amendments;
2. Text amendments to this UDO;
3. Rezonings;
4. Subdivision approvals in the Metro-Park Overlay District other than single-unit living;
5. Subdivision approvals in a Historic Overlay District or for a designated Historic Landmark;
6. Historic landmark designations; and
7. Amendments to floodprone area maps.

### Sec. 10.1.2. Planning Commission

#### A. In General

##### 1. Establishment

The Planning Commission is established and may exercise any and all powers prescribed by North Carolina general and local law, including the City Charter, and as described in this UDO and in the City Code, and perform duties as lawfully directed by the City Council.

##### 2. Composition

- a. The Planning Commission shall consist of 10 members.

- b. Nine members shall reside within the corporate limits of the City. The 9 members shall be appointed by the City Council for terms of no more than 2 years.
- c. One member shall reside outside the corporate limits of the City but reside within the limits of the extraterritorial jurisdiction of the City. This member shall be appointed by the Chairman and Board of Commissioners of Wake County for a term of no more than 2 years.
- d. Vacancies on the Planning Commission will be filled in the same manner and by the same governing body as the original appointment.

#### 3. Rules of Procedure

- a. The Planning Commission shall establish its own rules of procedure, subject to approval by the City Council.
- b. The rules, regulations, minutes and actions of the Planning Commission shall be maintained at the office of the City Clerk.

#### B. Specific Review Authority

The Planning Commission is responsible for review and recommendation regarding:

1. Comprehensive Plan amendments;
2. Text amendments to this UDO; and
3. Rezonings.

### Sec. 10.1.3. Board of Adjustment

#### A. In General

##### 1. Establishment

The Board of Adjustment is established and may exercise any and all powers prescribed by North Carolina general and local law, including the City Charter, and as described in this UDO and in the City Code, and perform duties as lawfully directed by the City Council.

##### 2. Composition

- a. The Board of Adjustment shall consist of 5 regular members and 3 alternate members. Four of the regular members and 2 of the alternate

members shall reside within the corporate limits of the City. They shall be appointed by the City Council for terms of 2 years.

- b. One of the regular members and one of the alternate members shall reside outside the corporate limits of the City but within the limits of the extraterritorial jurisdiction of the City. They shall be appointed by the Chairman and Board of Commissioners of Wake County.
- c. Vacancies on the Board of Adjustment will be filled in the same manner and by the same governing body as the original appointment.
- d. An alternate member whose place of residence is within the City's corporate limits may vote on the Board of Adjustment only in the absence of a regular member residing within the City's corporate limits or the inability of the regular member to vote.
- e. The alternate member from the extraterritorial jurisdiction may vote only in the absence of the Board of Adjustment regular member from the extraterritorial jurisdiction or the inability of the regular member to vote.
- f. When serving on the Board of Adjustment, alternate members have the same powers and responsibility as the regular members they are replacing.

### **3. Vote Required and Jurisdiction**

The concurring vote of  $\frac{4}{5}$  of the members of the Board of Adjustment is necessary to approve a variance request. All other matters may be approved by an affirmative vote of a simple majority.

### **4. Rules of Procedures**

- a. The Board of Adjustment shall establish its own rules of procedure, subject to approval by the City Council.
- b. The rules of procedure shall at minimum provide for selection of officers of the Board of Adjustment, responsibilities of Board of Adjustment members, order for the conduct of quasi-judicial public hearings and times for filing appeals and holding public hearings.
- c. The rules, regulations, minutes and actions of the Board of Adjustment shall be maintained at the office of the City Clerk.

## **B. Specific Approval Authority**

The Board of Adjustment is responsible for final action regarding:

1. Special use permits;

2. Variances;
3. Subdivision waivers;
4. Appeals from administrative decisions; and
5. Appeals in the nature of certiorari of Historic Development Commission decisions granting or denying certificates of appropriateness.

## Sec. 10.1.4. Historic Development Commission

### A. In General

#### 1. Purpose

- a. The City is authorized by the North Carolina General Statutes to safeguard the heritage of the City by preserving any property or district that embodies important elements of its culture, history, architectural history or prehistory and to promote the use of and conservation of historic districts and historic landmarks for the education, pleasure and enrichment of the residents of the City and state as a whole.
- b. The purpose of the Historic Development Commission is to provide the organizational vehicle by which certain areas, structures, buildings and objects within the City's planning jurisdiction that have special significance in terms of history, prehistory, architecture, archaeology and culture and possess integrity of design, setting, materials, feeling and association may be preserved and protected.

#### 2. Composition

- a. The Historic Development Commission consists of 12 members, appointed by City Council for uniform overlapping 2-year terms.
- b. A majority of the members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.
- c. All members shall reside either within the City's corporate limits or within its extraterritorial jurisdiction area.
- d. At least ¼ of the membership shall either reside or own property in a Historic Overlay District or that is designated as a Raleigh Historic Landmark.
- e. The Historic Development Commission may appoint advisory bodies and committees as appropriate.
- f. In event of a vacancy, the City Council shall appoint a new member within 60 days; members shall serve until their successors have been appointed.

### 3. Rules of Procedure

- a. The Historic Development Commission may establish its own rules of procedure, subject to approval by the City Council.
- b. The rules of procedures shall at minimum provide for selection of the officers of the Commission, the time and place of its regular meetings, which shall at least be held monthly, the calling of special meetings and the procedures for the conduct of public hearings and voting.
- c. The Historic Development Commission shall elect from its membership a chairperson and vice-chairperson, who shall serve for terms of 1 year, who shall be eligible for reelection and who shall have the right to vote. The chairperson shall preside over the Commission.
- d. In the absence or disability of the chairperson, the vice-chairperson shall perform the duties of the chairperson.
- e. The rules, regulations, minutes and actions of the Historic Development Commission shall be maintained as a separate document as a public record at the office of the Commission.

### B. General Authority

The powers of the Historic Development Commission are as follows.

1. Undertake an inventory of properties of historical, prehistorical, architectural, archaeological or cultural significance.
2. Recommend to the City Council districts or areas to be designated as a Historic Overlay District and recommend individual structures, buildings, sites, areas or objects to be designated as Historic Landmarks.
3. Recommend to the City Council that designation of any area as a Historic Overlay District or part of a Historic Overlay District be revoked or removed for cause and recommend that designation of individual structures, buildings, sites, areas or objects as Historic Landmarks be revoked or removed for cause.
4. Restore, preserve and operate historic properties.
5. Conduct an educational program with respect to historic properties and districts within its jurisdiction.

6. Cooperate with the State, Federal and local governments. The City Council or the Historic Development Commission, when authorized by the City Council, may contract with the State or the United States of America or any agency of either or with any other organization provided the terms are not inconsistent with State or Federal law.
7. Request the advice and assistance of any officer or agency of the City Council with respect to any matter arising under its purview.
8. Enter, solely in performance of its official duties and only at reasonable times, upon private land for examination or survey. However, no member, employee or agent of the Historic Development Commission may enter any private building or structure without either the express consent of the owner or occupant or authority of law.
9. Conduct any meetings or hearings necessary to carry out the responsibilities of the Historic Development Commission.
10. Acquire by any lawful means the fee or any lesser included property interest, including options to purchase, to properties within any established Historic Overlay District or to any properties designated as Historic Landmarks, to hold, manage, preserve, restore and improve the same and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property. All lands, buildings or structures acquired by the Historic Development Commission from funds other than those appropriated by the City Council may be acquired and held in the name of the Historic Development Commission, the City or both.
11. Recommend to the City Council acquisition of the fee or any lesser included property interest (including public access), preservation easements and other covenants of historic property. The City Council may make appropriations and own such property under the following conditions:
  - a. Acquisition. Within the limits of its jurisdiction for planning and regulation of development the City Council may acquire properties within Historic Overlay Districts and/or properties designated as Historic Landmarks. In the event the property is acquired but is not used for some other governmental purpose, it shall be deemed to be "museum" under the provisions of General Statutes notwithstanding the fact that the property may be or remain in private use, so long as the property is made reasonably accessible to and open for visitation by the general public;
  - b. Ownership. All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by the City Council shall be acquired in the name of the City unless otherwise provided by the City Council. So long as owned by the City, historic properties may be maintained by or under the supervision and control of the City; and
  - c. Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.
12. Take steps, during the period of postponement of demolition of any Historic Landmark or property within a Historic Overlay District, to ascertain what the City Council can or may do to preserve such property, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of potential acquisition by the City Council when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic and architectural significance.
13. Propose to the City Council changes to the Historic Overlay District regulations or any other ordinance and propose new ordinances or laws relating to Historic Landmarks and the Historic Overlay District or relating to a total program for the protection or development of the historic resources of the City.
14. Study and recommend to the City Council means by which historic preservation efforts can be coordinated and strengthened.
15. Study and recommend revisions to the Historic Preservation Element of the Comprehensive Plan.
16. Review and act upon proposals for restoration, alteration, reconstruction, relocation, demolition or new construction within a Historic Overlay District, pursuant to procedures established in this UDO and for proposals for alteration, reconstruction, restoration, relocation, new construction or demolition of designated Historic Landmarks outside a Historic Overlay District, pursuant to procedures outlined in this UDO.

17. Report violations of Historic Landmark and Historic Overlay District regulations or other ordinances affecting Historic Landmarks and properties within Historic Overlay Districts, to the appropriate enforcement agency.
18. Accept funds to be used for preservation purposes that are granted to the Historic Development Commission by private individuals, organizations and local governing bodies.
19. Receive appropriations as may be made to the Historic Development Commission by the City Council.
20. Planning and Development shall provide such technical, administrative and clerical assistance as required by the Historic Development Commission.

**C. Specific Review Authority**

1. The Historic Development Commission is responsible for review and recommendation regarding:
  - a. Historic district rezoning;
  - b. Historic landmark designation; and
  - c. Subdivision approvals in a Historic Overlay District or for a designated Historic Landmark.

**D. Specific Approval Authority**

The Historic Development Commission is responsible for final action on certificates of appropriateness that are subject to summary proceedings or to a quasi-judicial public hearing.

## Sec. 10.1.5. Appearance Commission

### A. In General

#### 1. Establishment

The Appearance Commission is established to exercise any and all powers prescribed by North Carolina general and local law under N.C. Gen. Stat. §160A, Article 19, Part 7, including the City Charter, and to perform duties as lawfully directed by the City Council.

#### 2. Composition

- a. The Appearance Commission shall be composed of 15 members who shall reside either within the City corporate limits or within the extra-territorial jurisdiction of the City.
- b. Members of the Appearance Commission shall be appointed by the City Council. Each member shall be appointed for a term of 2 years.
- c. Where possible, appointments to the Appearance Commission shall be made in such manner as to maintain a majority of members with special training or experience in a field of design such as architecture, landscape design, horticulture, city planning, urban design or a closely-related field.

#### 3. Rules of Procedure

- a. The Appearance Commission shall establish its own rules of procedure, subject to approval by the City Council.
- b. The Appearance Commission shall, no later than April 15 of each year, submit to the City Council a written report of its activities, a statement of its expenditures to date for the current fiscal year and its requested budget for the next fiscal year. All accounts and funds of the Appearance Commission shall be administered in accordance with the requirements of all applicable State and local laws.

- c. The Appearance Commission may receive contributions from private agencies, foundations, organizations, individuals and the State or Federal government or any other source in addition to any sums appropriated for its use by the City Council. It may accept and disburse these funds for any purpose within the scope of its authority as specified in this section and under all applicable State and local laws.
- d. The rules, regulations, minutes and actions of the Appearance Commission shall be maintained by Planning and Development.

### B. General Authority

1. The Appearance Commission shall make a careful study of the visual aspects of the City and its planning and zoning jurisdiction and shall make plans and carry out programs that will enhance and improve the visual quality and aesthetic characteristics of such areas within the Appearance Commission's scope of the powers.
2. The Appearance Commission may recommend to the City Council suitable arrangements for the procurement or provision of staff or technical services for the Commission and may establish an advisory council or other committee to aid it in its work.
3. The Appearance Commission shall in accordance with this UDO conduct public meetings and evaluate requests for Administrative Alternates and may recommend to the Planning and Development Officer approval of the alternate, approval of the alternate with changes or denial of the alternate.

## Sec. 10.1.6. Open Meeting Requirements

Meetings of the City Council and its Boards and Commissions are subject to all applicable requirements of the North Carolina open meetings law.

## Sec. 10.1.7. Planning and Development Officer

### A. Delegation of Authority

1. The Planning and Development Officer serves as the administrator of this UDO unless otherwise stated.
2. The Planning and Development Officer may designate any staff member as their designee in any function assigned by this UDO to Planning and Development; the Planning and Development Officer remains responsible for any action taken by their designee.
3. The Planning and Development Officer is the administrative director of Planning and Development and has the authority to supervise all activities and decisions of Planning and Development.

### B. General Authority

The functions and duties of the Planning and Development Officer include:

1. Administration and coordination of the City's planning program, including liaison information and technical assistance to citizens, community groups, commissions and supervision of planning studies and reports;
2. Administration of land use controls such as this UDO and their technical maintenance;
3. Assembling of data, preparation of maps, maintenance of a complete information system and development of planning policy and implementation for the comprehensive planning process;
4. Assistance in implementation of plans, studies and coordination of efforts dealing with environment, open space, urban design and historic preservation;
5. Neighborhood studies and coordination with regard to housing and neighborhood planning;
6. Economic development;
7. Transportation planning;
8. Assistance to other City departments;
9. Receive development plans, permit review, schedule inspections and issue permits; and
10. Urban design.

### C. Specific Review Authority

The Planning and Development Officer is responsible for review and recommendation (unless otherwise noted) regarding:

1. Comprehensive Plan amendments;
2. Text amendments to this UDO;
3. Rezoning (review only)
4. City Council approved subdivisions (review only);
5. Special use permits (review only);
6. Variances (review only);
7. Historic Landmark designations;
8. Major certificates of appropriateness (review only); and
9. Subdivision waivers (review only).

### D. Specific Approval Authority

Subject to any right of appeal, the Planning and Development Officer is responsible for final action regarding:

1. Preliminary subdivision plans except for subdivision approvals, other than single-unit living in the Metro-Park Overlay District, subdivision approvals in any Historic Overlay District or for a designated Historic Landmark or when a subdivision waiver is requested;
2. Final subdivision plats;
3. Zoning permits;
4. Plot plans;
5. Site plans;
6. Minor certificates of appropriateness;
7. Temporary use permits; and
8. Administrative alternates.

### Sec. 10.1.8. Summary of Review Authority

The following table summarizes the review and approval authority of the various review bodies with regard to this UDO.

APPROVAL PROCESS	ADMINISTRATION		REVIEW BODIES					PUBLIC NOTICE				
	X-ref	City Official	Historic Development Commission	Appearance Commission	Board of Adjustment	Planning Commission	City Council	Neighborhood Meeting	Web	Site Posted	Mailed	Published
Comprehensive Plan Amendment	Sec. 10.2.2.	RR				RR	D-PH		Y		Y <sup>(2)</sup>	Y <sup>(3)</sup>
Text Amendment to UDO	Sec. 10.2.3.	RR				RR	D-PH		Y			Y <sup>(3)</sup>
Rezoning Map Amendment	Sec. 10.2.4.	R	R <sup>(1)</sup>			RR	D-PH	Y	Y	Y	Y	Y <sup>(3)</sup>
Subdivision Review	Sec. 10.2.5.											
Preliminary Subdivision Plan		D	R <sup>(1)</sup>						Y		Y	
Final Subdivision Plat		D										
Subdivision Waiver		R			D-QH				Y	Y	Y	
Subdivisions in an -MPOD (other than single-unit living)		R					D-QH		Y		Y	
Subdivisions in a -HOD-G or -HOD-S or properties with Historic Landmarks		R	RR				D-QH		Y		Y	
Other Map Approvals		D							Y			
Non-Subdivision Final Plat and Recorded Instruments	Sec. 10.2.6.	D			A-QH				Y			
Plot Plan Review	Sec. 10.2.7.	D			A-QH							
Site Plan Review	Sec. 10.2.8.	D			A-QH				Y	Y		
Special Use Permit	Sec. 10.2.9.	R			D-QH				Y	Y	Y	Y
Variance	Sec. 10.2.10.	R			D-QH				Y	Y	Y	Y
Common Signage Plan	Sec. 10.2.12.	D			A-QH							
Temporary Use Permit	Sec. 10.2.13.	D			A-QH				Y			
Written Interpretation of UDO	Sec. 10.2.14.	D			A-QH				Y	Y <sup>(5)</sup>	Y <sup>(5)</sup>	
Certificate of Appropriateness	Sec. 10.2.15.											
Minor		D	A-QH						Y			
Major		R	D-QH		A-QH				Y	Y	Y	Y
Historic Landmark Designation	Sec. 10.2.16.	R	R <sup>(1)</sup>				D-JH		Y	Y		Y
Administrative Alternative	Sec. 10.2.17.	D		RR <sup>(4)</sup>	A-QH				Y		Y	
Design Adjustment	Sec. 10.2.18.	D			A-QH				Y		Y	
Vested Rights	Sec. 10.2.19.	R					D-QH		Y	Y	Y	Y

**KEY:** R = Review RR = Review & Recommendation D = Final Decision A = Appeal PH = Public Hearing QH = Quasi-Judicial Public Hearing  
 JH = Joint Public Hearing with Historic Development Commission Y = Required

<sup>(1)</sup> Historic Development Commission reviews applications in -HOD-G, -HOD-S or properties with Historic Landmarks.

<sup>(2)</sup> Staff to provide mailed notice to non-applicant property owners of proposed future land use map alterations in accordance with Comprehensive Plan.

<sup>(3)</sup> Published notice is only required for the Public Hearing.

<sup>(4)</sup> Appearance Commission review as specified in this UDO.

<sup>(5)</sup> Site posting and mailed notice provided only for written interpretations associated with a specific site plan or subdivision.

## Article 10.2. Review Procedures

### Sec. 10.2.1. Common Review Procedures

#### A. Applicability

The following requirements are common to many of the procedures contained in this UDO and apply to applications submitted under this Chapter. Additional details may be included for each specific procedure.

#### B. Application Requirements

##### 1. Initial Application Submittal

All applications for development approval shall be submitted in accordance with the requirements of this UDO and shall be filed with Planning and Development.

##### 2. Forms

Applications required under this UDO must be submitted, fully completed, on forms and in such numbers as required by the City. For required application forms, as may be found on the City's web portal, see *Sec. 10.2.2.* through *Sec. 10.2.18.*

##### 3. Fees Schedule

- a. Filing fees have been established to help defray the cost of processing applications. Fees shall be listed in the Development Fee Schedule. The fee schedule is kept on file by Planning and Development and except as otherwise provided in the Development Fee Schedule is updated annually on July 4th based on the average annual prior calendar year United States Department of Labor Consumer Price Index - All Urban consumers and as may be modified from time to time by the City Council.
- b. Before review of an application, including applications for re-hearings, all filing fees must be paid in full. No refund of the fee or any part of the fee shall be made unless the application is withdrawn prior to a hearing.
- c. A fee shall not be required if the application is made by the City or any agency created and appointed by the City Council to perform governmental functions.

#### 4. Application Deadline

Complete applications shall be submitted in accordance with the City's filing calendar. A calendar indicating submittal dates shall be developed by the Planning and Development Officer each year and shall be maintained and updated by Planning and Development.

#### C. Public Notice Requirements

For public notice, meeting and hearing requirements applicable to each procedure, see *Sec. 10.1.8.* Any defective notification of a required City procedure, not otherwise required by State or Federal law, does not invalidate the proceedings if the defect is determined to be harmless error by the City.

##### 1. Mailed Notice

- a. Whenever mailed notice is required by *Sec. 10.1.8.*, at the time of submission of the application, the applicant shall deliver to Planning and Development first class stamped envelopes addressed to the property owners of the property included in the proposed application and the owners of all property within 100 feet on all sides of the subject property at the time of submittal.
- b. When mailed notice is required for pre-submittal public meetings, the applicant may provide to the City return receipts from the mailing notification by the applicant to the required property owners by certified mail, returned receipt requested.
- c. Mailed notice shall be provided to all property owners as listed in the Wake County tax records that own property within 100 feet of the application at the time of submittal. Additionally, all property owners in the area of request shall receive mailed notice. In calculating this 100-foot radius, adjacent right-of-way shall not be counted, unless the right-of-way is at least 100 feet in width.
- d. Mailed notices must be sent to the addressees at least 10 calendar days prior and not more than 25 calendar days prior to the date of any public meeting.
- e. Except as otherwise directed by the City Council, the City Board or Commission reviewing the matter shall not require additional notification.
- f. For zoning map amendments that directly affect more than 50 properties owned by a total of at least 50 different property owners, the City may

elect to forego mailed notice and instead give notice of the public hearing by publication provided that the newspaper advertisement is not less than ½ of a newspaper page in size. Property owners who reside outside of the newspaper circulation area, according to the addresses listed in the most recent property tax listing for the affected properties, shall be notified by first class mail.

- g. Except for a City-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the City Council that the owner of the parcel of land, as shown on the county tax listing, has received actual notice of the proposed amendment and a copy of the notice of public hearing. The applicant shall certify to the City Council that proper notice has been provided in fact and such certification shall be deemed conclusive in the absence of fraud.
- h. Actual notice of the proposed amendment and a copy of the notice of public hearing shall be by any manner permitted under N.C. Gen. Stat. §1A-1, Rule 4(j).
- i. If notice with due diligence cannot be achieved by personal delivery, registered or certified mail or by a designated delivery service, notice may be given by publication consistent with N.C. Gen. Stat. §1A-1, Rule 4(j1). (See N.C. Gen. Stat. §160A-384).
- j. For quasi-judicial hearings, mailed notice shall be provided to all other persons with an ownership interest in the subject property as set forth in all applicable State and local laws.

## 2. Published Notice

- a. When published notice is required, notice of the public hearing shall be published by Planning and Development at least once in a newspaper having general circulation in the City not more than 25 or less than 10 calendar days prior to the date of the public hearing.
- b. In the case of any ordinance adopting, amending or repealing any provision of this UDO, including zoning map amendments, notice of a public hearing shall be published once a week in a newspaper having general circulation within the City for 2 successive calendar weeks.

- c. In determining the time period, the day of publication is not to be included but the day of the hearing shall be included.

## 3. Web Notice

- a. When web notice is required, notice shall be posted on the City's web portal within 5 business days following acceptance of a complete application; required web notice of the decision shall be posted on the City's web portal no later than 3 business days from the date of decision.
- b. When web notice of any public meeting is required, notice of the public meeting shall be posted on the City's web portal not less than 10 calendar days prior to the date of the public hearing.
- c. In determining the time period, the day of posting on the City's web portal is not to be included but the day of the hearing shall be included.

## 4. Posted Notice

- a. When posted notice of any public meeting is required, signage shall be posted by the City on the property at a point visible from the nearest public street or streets if the property fronts on multiple streets.
- b. In the case of multiple parcels, a posting on each individual parcel is not required, but sufficient signage shall be posted to provide reasonable notice to interested persons.
- c. The sign shall not measure less than 18 inches x 24 inches. Signage shall be posted at least 10 calendar days prior to the date of the public meeting.
- d. The posted sign shall be returned to Planning and Development by the applicant either at the public meeting or within 3 business days following the public meeting.

## 5. Content of Notice

### a. Published, Web or Mailed Notice

The content of required published, web or mailed notice shall be as follows:

- i. A case number;
- ii. The address or Parcel Identification Number of the subject property (if available);
- iii. The general location of the land that is the subject of the application, which may include a location map;
- iv. A description of the action requested and nature of the questions involved;
- v. The time, date and location of the public hearing, public meeting or the neighborhood meeting if applicable and the name of the reviewing body;
- vi. A phone number and e-mail address to contact Planning and Development;
- vii. The address for the City's web portal;
- viii. A statement that persons may appear at the public hearing, public meeting or at the neighborhood meeting if applicable or make written comments to the Planning and Development Officer as applicable; and
- ix. A statement that more specific information is available at Planning and Development.

### b. Posted Notice

Required posted notice of a public meeting or public hearing shall provide at least the following:

- i. A case number;
- ii. A description of the action requested;
- iii. The address for the City's web portal; and
- iv. A phone number and e-mail address to contact Planning and Development.

## 6. Notice of Decision

- a. Except when notice is provided by permit issuance, notice of decision shall provide at least the following:
  - i. A case number;
  - ii. The address of the subject property (if available and relevant);
  - iii. The general location of the land (if relevant) that was the subject of the application, which may include a location map;
  - iv. A description of the application;
  - v. The date the application was decided;
  - vi. A description of whether the application was approved, approved with conditions or denied;
  - vii. A phone number and e-mail address to contact Planning and Development; and
  - viii. The address for the City's web portal.
- b. Unless otherwise stated by general law, this UDO or by the rules of procedure adopted by the applicable reviewing body, within 10 business days following the effective date of a decision, a copy of the decision shall be sent by either electronic notification or first class mailing to the applicant and the property owner (if the property owner is not the applicant) and filed with Planning and Development, where it shall be made available for public inspection during regular office hours. In the case of permit issuance, receipt of the permit by the applicant, contractor, property owner or their representative shall constitute written notice of the decision.
- c. In the case of a quasi-judicial decision, notice of the decision shall also be given to the applicant, the property owner (if the property owner is not the applicant) and each person who has filed a written request for notice with the presiding officer or secretary of the reviewing body (if any) at the time of the hearing of the case, with such notice to be delivered to the requesting party by either personal service or by registered mail or certified mail, return receipt requested.

## D. Additional Requirements

### 1. Quasi-Judicial Public Hearing Requirements

For notice and hearing requirements applicable to each quasi-judicial procedure see *Sec. 10.1.8*.

#### a. Rules of Procedure

- i. In all quasi-judicial hearings, rulings must be based only upon the evidence received by the reviewing body at the hearing.
- ii. The review body shall act as an impartial decision-maker. No member shall participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to the hearing of the matter that is not susceptible to change, undisclosed ex-parte communication, a close financial business or other associational relationship with an affected person or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not excuse themselves, the remaining members of the review body shall by majority vote rule on the objection.
- iii. The reviewing body shall act as a fact-finding body and shall approve or disapprove the application in accordance with the evidence presented before it which is substantial, competent, relevant and material.
- iv. The burden of proof is upon the party who files the application and if the party fails to meet its burden, the reviewing body shall deny the request.

#### b. Conduct of Hearing

- i. The presiding officer of the reviewing body shall call the proceedings to order and announce that the hearing has begun.
- ii. All witnesses who are to testify at the hearing shall be sworn in.
- iii. The Planning and Development Officer shall briefly describe the applicant's request, introduce and review all relevant City Code provisions and answer questions from the reviewing body.

- iv. The applicant (if acting in a pro se capacity) or their legal counsel shall present the case in support of its application.
- v. Parties in interest, including the City, shall have the right to present evidence and cross-examine witnesses, as to any competent, material and relevant facts, inspect documents and make oral argument.
- vi. Counsel for the reviewing body may advise the reviewing body as to the applicable law and the findings of fact that must be made to approve or deny the request.
- vii. The reviewing body shall conduct open deliberation of the application. The presiding officer of the reviewing body shall have the discretion to reopen proceedings for additional testimony or argument by the parties when the reviewing body determines that a decision cannot be made with the testimony at hand.
- viii. Reasonable and appropriate conditions and safeguards may be imposed as part of any approval. A condition offered by the reviewing body for an approval must be related to the evidence received by the reviewing body at the hearing as provided for under all applicable State and local laws.
- ix. Every decision shall include the vote, abstention from voting or absence of each member. The decision, including findings of fact and conclusions of law, shall be filed with the City Clerk. A written copy of the decision shall be delivered in accordance with *Sec. 10.2.1.C.6*.
- x. The presiding officer of the reviewing body shall rule on the admissibility of evidence and make determinations on whether evidence is competent, material, relevant or redundant.

#### c. Examination

Members of the reviewing body may ask questions of persons presenting testimony or evidence at any time during the proceedings until commencement of deliberation.

#### d. Cross-Examination of Witnesses

After each witness testifies, testimony is subject to cross-examination.

**e. Rules of Evidence**

- i. Competent evidence shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if;
  - a) The evidence was admitted without objection; or
  - b) The evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the reviewing body to rely upon it.
- ii. Competent evidence shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:
  - a) The use of property in a particular way would affect the value of other property;
  - b) The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety; and
  - c) Matters about which only expert testimony would generally be admissible under the rules of evidence.
- iii. Documentary business records may be presented in the form of a copy or the original. Upon request, parties shall be given an opportunity to compare the copy with the original.

**f. Statements of Counsel**

Statements of counsel, or any individual acting in a pro se capacity, shall only be considered as argument and not testimony unless counsel or the individual is sworn in and the testimony is based on actual personal knowledge of the matters which are the subject of the statements.

**g. Continuances and Deferrals**

The reviewing body shall consider requests for continuances and may grant continuances in its sole discretion. If, in the opinion of the reviewing body, any testimony or documentary evidence or information presented at the hearing justifies allowing additional research or review in order to properly determine the issue presented, then the reviewing body may continue the matter to a time certain to allow for such research or review.



## Sec. 10.2.2. Comprehensive Plan Amendment

### A. Applicability

1. The City Council shall consider amendments to the Comprehensive Plan.
2. Amendments to the Comprehensive Plan shall be made in accordance with the provisions of this section.

### B. Pre-Application Conference

Before submitting an application for a Comprehensive Plan amendment, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning and Development Officer.

### C. Application Requirements

1. An application for a Comprehensive Plan amendment shall be submitted in accordance with the general application requirements of *Sec. 10.2.1.B*.
2. An application for a Comprehensive Plan amendment will only be accepted in accordance with the City's filing calendar.
3. A Comprehensive Plan Amendment form must be filled out completely to initiate a change.

### D. Approval Process

#### 1. Planning and Development Officer Action

- a. The Planning and Development Officer shall review the application for a Comprehensive Plan amendment in accordance with Planning and Development Officer Review in *Sec. 10.2.2.E* and provide a report and recommendation to the Planning Commission no later than Planning Commission's next public meeting.

- b. The Planning and Development Officer shall also provide a report and recommendation to the City Council when the City Council considers authorizing a public hearing on the proposed Comprehensive Plan amendment.

#### 2. Planning Commission Action

- a. Within 45 days following submission of a completed application and City approval of all required technical documents, the Planning Commission shall hold a public meeting on the proposed amendment which shall be noticed in accordance with *Sec. 10.1.8* and *Sec. 10.2.1.C*.
- b. The Planning Commission may refer the proposed amendment to a work session of the Planning Commission or 1 of its committees for additional consideration or the Planning Commission may act upon the application.
- c. Within 90 days after its receipt of the proposed amendment, the Planning Commission shall make its recommendation to the City Council. Within this time period, the Planning Commission may request extensions of time which may be granted by the City Council. If no recommendation is made within this time period and if no extension is granted, the City Council may take action on the application without further involvement of the Planning Commission.
- d. The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission shall recommend that the request be approved, approved as revised, denied or request further study.

### 3. Public Hearing by City Council

- a. Following the recommendation of the Planning Commission or expiration of the applicable Planning Commission review period without a recommendation, the City Council shall conduct a public hearing. Notice of the public hearing shall occur within 60 days of receiving the request from the Planning Commission.
- b. The public hearing shall be noticed in accordance with *Sec. 10.1.8.* and *Sec. 10.2.1.C.*

### 4. City Council Public Hearing and Action

- a. Before taking final action on a proposed Comprehensive Plan amendment, the City Council may consider the recommendations of the Planning Commission and Planning and Development Officer and comments made at the public hearing.
- b. The City Council may review the application in light of the considerations in *Sec. 10.2.2.E.*
- c. The City Council shall approve, approve as revised, deny, send the proposed Comprehensive Plan amendment back to the Planning Commission or Planning and Development Officer for additional consideration.
- d. Approval by the City Council shall include the adoption of a statement describing how the City Council considers the action taken to be reasonable and in the public interest.
- e. All enactments, amendments and changes must be in the form of a resolution. Copies of Comprehensive Plan amendments shall be kept on file at the office of the City Clerk.

### E. Considerations for Planning and Development Officer Review

The following lists of considerations for the Planning and Development Officer's review and recommendations regarding a proposed Comprehensive Plan amendment are not all-inclusive. Review and recommendations of proposed Comprehensive Plan amendments may consider whether:

1. The proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed amendment is in response to changes in state law;

3. The proposed amendment constitutes a substantial benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time; and
4. The proposed amendment is consistent with other identified Plan policies and adopted area plans;
5. The impact of the proposed amendment has with regard to:
  - a. Established property or proposed development in the vicinity of the proposed amendment;
  - b. Existing or future land use patterns;
  - c. Existing or planned public services and facilities;
  - d. Existing or planned roadways;
  - e. The natural environment, including air, water, noise, stormwater management, wildlife and vegetation; and
  - f. Other policies of the Comprehensive Plan.



### Sec. 10.2.3. UDO Text Amendment

#### A. Applicability

1. The City Council shall consider amendments to the text of this UDO.
2. Amendments to the text of this UDO shall be made in accordance with the provisions of this section.

#### B. Pre-Application Conference

Before submitting an application for a UDO text amendment, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning and Development Officer.

#### C. Application Requirements

1. An application for a UDO text amendment shall be submitted in accordance with the general application requirements of *Sec. 10.2.1.B*.
2. A UDO text amendment request by a member of the public also requires authorization by the City Council.
3. City Council may reject the petition or direct further consideration of the UDO text amendment request in accordance with *Sec. 10.2.3.D*.

#### D. Approval Process

##### 1. Planning and Development Officer Action

- a. The Planning and Development Officer shall provide a report and recommendation to the City Council when the Council considers authorizing a public hearing on a UDO text amendment.
- b. Upon submittal, the Planning and Development Officer shall review the application for a UDO text amendment in accordance with *Sec. 10.2.3.E* and provide a report and recommendation to the Planning Commission within

45 days of submittal of a completed application. The Planning and Development Officer may request additional time from the City Council.

##### 2. Planning Commission Action

- a. Upon acceptance of the UDO text amendment application, the Planning Commission shall hold a public meeting to discuss the UDO text amendment. Public notice of the text amendment shall be provided in accordance with *Sec. 10.1.8*.
- b. The Planning Commission may refer the application to a work session of the Planning Commission or to 1 of its committees for additional consideration.
- c. Within 90 days after receipt of the proposed amendment, the Planning Commission shall make its recommendation to the City Council. Within this time period, the Planning Commission may request extensions of time which may be granted by the City Council. If no recommendation is made within this time period and if no extension is granted, the City Council may take action on the application without further involvement of the Planning Commission.
- d. A recommendation by the Planning Commission shall include the adoption of a statement describing how the Planning Commission considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.
- e. The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission shall recommend that the request be approved, approved as revised, denied or request further study.

### 3. Public Hearing by City Council

- a. Following the recommendation of the Planning Commission or expiration of the applicable Planning Commission review period without a recommendation, the City Council shall conduct a public hearing. Notice of the public hearing shall occur within 60 days of receiving the request from the Planning Commission.
- b. Notice of the public hearing shall be given in accordance with *Sec. 10.1.8*.

### 4. City Council Public Hearing and Action

- a. Before taking final action on a UDO text amendment, the City Council may consider the recommendations of the Planning Commission and Planning and Development Officer and comments made at the public hearing.
- b. The City Council shall approve, approve as revised, deny, send the proposed UDO text amendment back to the Planning Commission or Planning and Development Officer for additional consideration.
- c. Approval by the City Council shall include the adoption of a statement describing how the City Council considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.
- d. All enactments, amendments and changes must be in the form of an ordinance. Copies of adopted city ordinances shall be kept on file at the office of the City Clerk.

### E. Considerations for Planning and Development Officer Review

The following lists of considerations for the Planning and Development Officer's review and recommendations regarding a UDO text amendment application are not all-inclusive. Review and recommendations on UDO text amendments to this UDO by the Planning and Development Officer may consider whether:

1. The proposed text amendment corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed text amendment is in response to changes in state law;
3. The proposed text amendment is generally consistent with the Comprehensive Plan and adopted area plans;

4. The proposed text amendment does not conflict with any specific policy or action item of the Comprehensive Plan;
5. The proposed text amendment is generally consistent with the stated purpose and intent of this UDO;
6. The proposed text amendment constitutes a benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time;
7. The proposed text amendment significantly impacts the natural environment, including air, water, noise, stormwater management, wildlife and vegetation; and
8. The proposed text amendment significantly impacts existing conforming development patterns, standards or zoning regulations.



### Sec. 10.2.4. Rezoning

#### A. Applicability

1. The City Council may on its own motion initiate changes to the Official Zoning Map and shall consider amendments to the Official Zoning Map.
2. Amendments to the Official Zoning Map shall be made in accordance with the provisions of this section.

#### B. Zoning Change Requirements

1. Where practicable, zoning changes should correspond with the boundary lines of existing tracts and lots.
2. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, the applicant shall revise the request to include all property necessary to meet zoning requirements.

#### C. Pre-Application Conference

Before submitting an application for rezoning, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning and Development Officer.

#### D. Neighborhood Meeting

1. A pre-submittal neighborhood meeting is required for all applications for a zoning map amendment, except where the City is the applicant. The applicant shall provide an opportunity to meet with property owners within or adjacent to the development site.
2. The required neighborhood meeting must be conducted prior to submittal of the rezoning application. The meeting may not occur more than 6 months prior to the submittal of the application. Notice of the neighborhood meeting must be provided in accordance with *Sec. 10.2.1.C.1.*

3. A report of the meeting, made by the applicant, shall be included with the zoning application given to Planning and Development.
  - a. The report shall include at a minimum, a list of those persons and organizations contacted about the neighborhood meeting, the date, time and location of the meeting, a roster of the persons in attendance at the meeting and a summary of issues discussed at the meeting.

#### E. Application Requirements

##### 1. General Requirements

- a. An application for a rezoning shall be submitted in accordance with the general application requirements of *Sec. 10.2.1.B.*
- b. A Rezoning Application form must be filled out to initiate a rezoning request.

##### 2. Additional Requirements for Conditional Use Applications

- a. An application for a conditional use rezoning may specify the use or uses prohibited or the use or uses allowed, including the maximum number of dwelling units and all development regulations which are requested for the property submitted for rezoning. The requested use or uses must be permitted in the corresponding general use district.
- b. All those regulations which apply to the corresponding general use zoning district are the minimum requirements in the conditional use district.
- c. Conditions which represent greater restrictions on development and use of the property than would apply in the corresponding general use district or which involve subdivision, stormwater control, flood protection or other limitations on land which may be regulated by City and State law, may be specified in the application.

- d. Zoning conditions associated with a lot line common to the subject property and an adjacent property shall reference the Deed Book / Page Number or recorded Book of Maps / Page Number of the associated adjacent property.
- e. No condition may be made part of the petition which specifies ownership status, race, religion or character of occupant, minimum value of improvements or any other exclusionary device.
- f. No condition shall be submitted that proposes to regulate right-of-way reimbursement values, prohibit cross-access or public street connections or extensions, prohibit submittal of a traffic impact analysis, nor shall any site plans, renderings or other images be submitted as part of the conditional use rezoning application unless all elements of the site plan, rendering or image graphically illustrate the written text of the conditions in which case the written zoning conditions shall remain as the controlling instrument.
- g. No condition may be made part of the petition which duplicates an existing City code requirement.
- h. For any condition specified on the petition that may affect potential compliance with the requirements of this UDO or any other City ordinance on the property requested for rezoning, proper submittal of information and review shall be requested by Planning and Development, prior to a City Council decision on the rezoning.
- i. No condition may be made part of the petition which specifies the establishment and protection of tree conservation areas or tree protection areas unless the condition ensures that 100% of the critical root zones of trees proposed for protection and located on the subject rezoned property shall also be undisturbed areas.

### 3. Additional Requirements for CMP and PD District Applications

In addition to a Rezoning Application, a Master Plan Application Package must be submitted in complete form to initiate a Campus (*Article 4.6. Campus (CMP)*) or Planned Development (*Article 4.7. Planned Development (PD)*) rezoning.

### 4. Additional Requirements for -HOD-G, -HOD-S and Historic Landmarks Applications

- a. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any proposed -HOD-G and -HOD-S and a description of the boundaries of the district, changes in boundaries or de-designation due to loss of significance, shall be prepared and/or reviewed by the Historic Development Commission. The City Council shall refer the report to the North Carolina Department of Cultural Resources.
- b. The Department of Cultural Resources, acting through an agent or employee designated by its Secretary, may analyze and make recommendations concerning such report and description of proposed boundaries. Failure by the Department of Cultural Resources to submit its written analysis and recommendations to the City within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the City of any responsibility for awaiting such analysis (N.C. Gen. Stat. §160A-400.4(b)2).
- c. The City Council may refer the report and proposed boundaries to the Planning Commission, in accordance with *Sec. 10.2.4.F.4.* and to any other interested body for its recommendations prior to taking action to amend the Official Zoning Map.

### 5. Additional Requirements for -NCOD Applications

- a. Except for applications filed by the City or otherwise authorized by the City Council, Planning and Development is instructed not to accept -NCOD applications unless the application meets all the following:
  - i. Is requesting that either at least a minimum of 15 contiguous acres be zoned -NCOD or that an existing -NCOD be extended. If allowed in the underlying zoning district, all uses in the civic use category shall be excluded when determining the minimum 15 acre requirement; however, such civic uses may be used in determining contiguity of the area.
  - ii. Is signed by a majority of the property owners within the area proposed to be rezoned -NCOD.

- iii. Is applied to an area where at least 75% of the lots are developed.
  - iv. It is located in an area in which the City Council has adopted into *Sec. 5.4.3.F.* specific neighborhood built environmental characteristics and regulations.
- b. Within four years following the City Council adoption of specific neighborhood built environmental characteristics and regulations, Planning and Development may accept an application rezone property to a -NCOD.
  - c. Following the City's official acceptance of an application to rezone property to a -NCOD in accordance with *Sec. 5.4.3.*, no construction permit shall be issued or subdivision or recombination be approved by the City during the pendency of the application to amend the Official Zoning Map unless the proposed construction or the proposed subdivision or recombination meets all of the provisions of the existing zoning district and also the adopted neighborhood built environmental characteristics and regulations contained in *Sec. 5.4.3.F.* for the proposed -NCOD.
  - d. If the City Council accepts a rezoning petition to apply a -NCOD, staff shall provide direct mailed notice to all property owners in the proposed overlay district. Additional mailed notice shall be provided in accordance with *Sec. 10.2.1.C.1.*

#### **6. Additional Requirements for DX- District Applications**

New applications requesting a DX- District must be for property located contiguous to or directly across the street from an existing DX- District.

### **F. Approval Process**

#### **1. Planning and Development Officer Action**

- a. The Planning and Development Officer shall review the application for a proposed rezoning in light of the considerations for Planning and Development Officer Review in *Sec. 10.2.4.H.* and provide a report to the Planning Commission. The Planning Commission recommendation shall be sent to the City Council in advance of the public hearing.
- b. In reviewing any required master plan, the Planning and Development Officer shall consult with the heads of the departments of Public Utilities,

Public Works, Transportation, Parks and Recreation and Fire to check the proposed master plan against the requirements of the UDO and other applicable technical requirements of the City.

#### **2. Planning Commission Action**

- a. Within 45 days following submission of a completed application and City approval of all required technical documents, the Planning Commission shall hold a public meeting on the proposed amendment which shall be noticed in accordance with the provisions of *Sec. 10.2.1.C.*
- b. The Planning Commission may refer the application to a work session of the Planning Commission or to 1 of the Planning Commission's committees for additional consideration or the Planning Commission may act upon the application.
- c. There is no limit on the sets of changes to the conditions following the first deliberation of the application by the Planning Commission. However, no set of changes to the conditions shall be considered and deliberated on by the Planning Commission unless an unsigned draft copy of the new set of conditions has been submitted at least 10 calendar days prior to the date of the scheduled Planning Commission meeting.
- d. During the review and deliberations of the Planning Commission, specified conditions may be removed or added, zoning districts changed, zoning boundaries altered and specified conditions may be made more or less restrictive.
- e. Within 90 days after its receipt of the proposed rezoning, the Planning Commission shall make its recommendation to the City Council. Within this time period, the Planning Commission may request extensions of time which may be granted by the City Council. If no recommendation is made within this time period and if no extension is granted, the City Council may take action on the application without further involvement of the Planning Commission.
- f. A recommendation by the Planning Commission shall include the adoption of a statement describing whether the Planning Commission considers the action taken to be consistent with the Comprehensive Plan and any other officially adopted plan that is applicable and briefly explaining why the action taken is reasonable and in the public interest.

- g. The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission shall recommend that the request be approved, approved as revised or denied.
- h. In no case shall changes to the conditions be accepted following an action by the Planning Commission and prior to the Planning Commission's Certified Recommendation being received by the City Council, other than non-substantive, technical revisions to the text of the conditions.
- i. For conditional use zoning cases, all conditions in the application must be signed by all of the property owners of the land being rezoned to a conditional use district and must be submitted to Planning and Development at least 2 business days before the date the City Council authorizes the matter for public hearing.

### 3. Public Hearing by City Council

- a. Following the recommendation of the Planning Commission or expiration of the applicable Planning Commission review period without a recommendation, the City Council shall conduct a public hearing. Notice of the public hearing shall occur within 60 days of receiving the request from the Planning Commission.
- b. Notice of the public hearing shall be given in accordance with *Sec. 10.1.8.*

### 4. Conduct of Public Hearing

- a. At the public hearing, the Planning and Development Officer will explain or identify, by maps or otherwise, the location and area involved in the rezoning and explain the uses permitted in the proposed zoning district. If applicable, the conditions specified in the petition shall be discussed.
- b. Those in favor of the rezoning will be allowed a total of 8 minutes to explain their support and those against the rezoning will be allowed a total of 8 minutes to explain their opposition. Additional time may be allowed by the City Council if requested in advance of the public hearing. Planning staff are not subject to the time limitation.

### 5. City Council Action

- a. Following the public hearing, revisions may be made to proposed conditions in conditional use zoning cases within 30 days following the public hearing date, provided that any change to any zoning condition is submitted to Planning and Development at least 10 calendar days before the date of the City Council meeting.
- b. Following the public hearing, no changes to conditional zoning conditions permitted by the City Council may be made which are less restrictive, including but not limited to less setback, more dwelling units, greater height, more access points, new uses and fewer improvements. However, more restrictive conditions as well as a reduction in size of the zoning request and a change to a more restrictive zoning district may be made provided the revised conditional zoning conditions are signed by all owners of property covered by the public hearing zoning petition.
- c. Signed conditions may be submitted by facsimile or electronic mail so long as the original signed petition is received by the Planning and Development Officer at least 24 hours before the date of the meeting where final City Council action is taken; provided that the electronic signature is (1) unique to the person using it; (2) capable of certification; (3) under the sole control of the person using it; and (4) linked to the same page as the petition.
- d. Before taking final action, the City Council may consider the recommendations of the Planning Commission and Planning and Development Officer and comments made at the public hearing.
- e. Unless a valid protest petition has been submitted and received by the City in accordance with *Sec. 10.2.4.G.*, the City Council, by a simple majority vote shall approve, deny or send the proposed rezoning back to the Planning Commission for additional consideration.
- f. Approval by the City Council shall include the adoption of a statement describing whether the City Council considers the action taken to be consistent with the Comprehensive Plan and any other officially adopted plan that is applicable and briefly explaining why the action taken is reasonable and in the public interest.

- g. For general use rezonings, the City Council shall consider all the potential uses and standards which would be allowed under the proposed rezoning. The City Council is not allowed to consider specific site plans or conditions as a basis for such a decision. Following the public hearing, general use rezonings may at the discretion of the City Council be reduced in acreage and height and the City Council may substitute, in whole or in part, a more restrictive zoning district.
- h. All enactments, amendments and changes must be in the form of an ordinance. Copies of adopted city ordinances shall be kept on file at the office of the City Clerk.

### G. Protest Petition

1. A rezoning request for which a protest petition has been determined to be valid requires a  $\frac{3}{4}$  super majority vote of the City Council for approval rather than a simple majority. For purposes of this section, vacant positions on the City Council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite super majority.
2. A protest petition in opposition to a rezoning shall be considered a "valid protest petition" if the petition meets the requirements of N.C. Gen. Stat. §160A-385 or any successor legislation.
3. Completed petitions shall be received by the City Clerk's office at least 2 business days prior to the date of the public hearing.
4. The City shall determine if the petition is a "valid protest petition", with such determination to be made by the Planning and Development Officer.
5. Planning and Development shall notify the petitioner and the City Council as to the validity of the protest petition.
6. A person who has signed a protest petition may withdraw their name from the petition at any time prior to the vote on the proposed zoning amendment. If a name has been withdrawn, the Planning and Development Officer shall determine the sufficiency of the protest petition.

### H. Considerations for Planning and Development Officer Review

The following lists of considerations for the Planning and Development Officer's review and recommendations regarding a rezoning application are not all-inclusive. Review of zoning map amendments by the Planning and Development Officer may consider whether:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is generally consistent with the Comprehensive Plan;
3. The proposed rezoning conflicts with any specific policy or action item of the Comprehensive Plan;
4. The proposed rezoning is generally consistent with the Future Land Use Map;
5. The proposed rezoning is generally consistent with the stated purpose and intent of this UDO;
6. The proposed rezoning will reinforce the existing or planned character of the area;
7. The site is appropriate for the development allowed in the proposed district;
8. There are substantial reasons why the property cannot be used according to the existing zoning;
9. The subject property is suitable for the proposed zoning;
10. There is a need for the proposed use at the proposed location;
11. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development; and
12. The proposed rezoning will not have a significant adverse impact on property in the vicinity of the subject property.

### I. Withdrawal or Modification of a Pending Application

No application for a proposed rezoning can be withdrawn after the City Council authorizes it for public hearing. Following authorization for a public hearing for a proposed rezoning, no modification to the application may be made except as specifically allowed in *Sec. 10.2.4.F.5.*

## J. Time Lapse between Applications

### 1. Limitations Between Applications

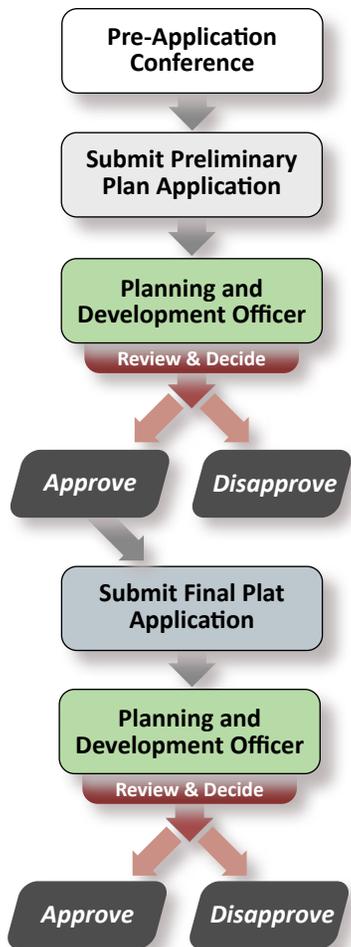
- a. Without special waiver approved by the City Council, the Planning and Development Officer is not authorized to accept an application for rezoning whenever an application for rezoning on the same property would be heard more than once at a public hearing within a 24-month period. But when the City Council decides not to authorize a public hearing, for the zoning petition, the 24-month waiting period shall be calculated from the date the zoning petition was first filed with Planning and Development. The increase or decrease of an area or other change in the request for rezoning does not negate this rule.
- b. In cases, however, where a proposed rezoning has been applied for by the City or other non-owner of the subject property, heard and acted on, applications by individual property owners (for the return of their property to its former zoning classification) will be accepted within the 24-month period without prior City Council approval.
- c. This 24-month period shall also not apply to a change in the underlying district when an application for an overlay district has been heard on the same property within a 24-month period or to a change in the overlay district when an application of the underlying district has been heard on the same property within a 24-month period.
- d. The 24-month waiting period shall not apply to any City Council-initiated rezoning when such modifications involve:
  - i. Re-adoption of the entire Official Zoning Map;
  - ii. Application of zoning to implement an adopted small area plan;
  - iii. Application of zoning to new extraterritorial jurisdiction areas; or
  - iv. Application of zoning to annexed areas which were not previously subject to this UDO.
- e. This 24-month period shall not apply to simultaneously submitted applications for rezoning. Zoning applications are simultaneous submitted when all of the following are met:

- i. Two or more zoning applications by different persons are filed for portions of the same property on the same work day and within one ½ hour of the first zoning filing on the property;
  - ii. No other earlier zoning application for portions of the same property have been filed with Planning and Development during the filing period under *Sec. 10.2.1.B.4.*; and
  - iii. Each simultaneous zoning application is complete without any errors or omissions. No additions or corrections to a zoning application shall be allowed to relate back in time to its initial submission with Planning and Development.
- f. For simultaneous submitted applications for rezoning, Planning and Development is instructed to set the applications for the same public hearing date.

### 2. Special Waiver

Following a recommendation from the Planning Commission, the City Council may grant a special waiver of the 24-month waiting period for one or more of the following grounds:

- a. Materially changed conditions;
- b. Clerical correction as the basis for the previous rezoning;
- c. Newly discovered evidence of adverse impact of the current zoning which by due diligence could not have been discovered in time for the earlier public hearing;
- d. Substantially changed zoning request; or
- e. The petition changes from a general use district request to a conditional use district request and specific conditions are submitted by all owners of the property, which represents a substantial change from the previous general use district request.



## Sec. 10.2.5. Subdivision Review

### A. Applicability

Except as expressly exempted below, no land shall be subdivided within the City or within the City's extraterritorial jurisdiction until:

1. A preliminary subdivision plan has been submitted and approved as provided in *Sec. 10.2.5.E.*; and
2. Infrastructure Construction Plans have been submitted and approved; and
3. A final plat has been submitted and approved as provided in *Sec. 10.2.5.F.*; and
4. The approved final plat has been filed and recorded with the local register of deeds office where the property is located.

### B. Exemptions

The following are exempt and are not subject to subdivision review under this section and the requirements of *Chapter 8. Subdivision & Site Plan Standards*, unless otherwise provided.

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the applicable zoning district.
2. The division of land into parcels greater than 10 acres where no right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
4. City of Raleigh right-of-way easement acquisition plats.

### C. Limitations on Subdivision Approval

1. No subdivision of any property shall be approved pending any application for the rezoning of property unless the subdivision is permitted under the existing zoning district of the property and also under the zoning district which is proposed for the property.

2. No subdivision shall be approved on any parcel of a parent tract when general forestry has occurred on the parent tract and the perimeter buffers under *Sec. 9.1.10.C.* were removed or substantially removed within the last 5 years.

### D. Pre-Application Conference

Before submitting an application for subdivision approval, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning and Development Officer.

### E. Preliminary Subdivision Plan Approval Process

#### 1. Application Requirements

- a. An application for preliminary subdivision plan approval shall be submitted in accordance with *Sec. 10.2.1.B.*
- b. The following forms must be filled out completely in order to process an application for preliminary subdivision plan approval:
  - i. Preliminary Subdivision Plan Application;
  - ii. Design Adjustment Request, if applicable (see *Sec. 10.2.18.*); and
  - iii. Any Waiver Request.

#### 2. Waivers

- a. In order to waive or modify any of the regulations or provisions of *Chapter 8. Subdivision & Site Plan Standards* not otherwise permitted, the Board of Adjustment must hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1.* and give notice as required in *Sec. 10.1.8.*
- b. Before a waiver or modification request is granted, the Board of Adjustment must find all of the following:
  - i. That topography or other existing physical conditions of the property are such that compliance with the

requirements under this section or *Chapter 8. Subdivision & Site Plan Standards* would cause an unusual and unnecessary hardship or practical difficulties on the developer above and beyond what other developers would meet or deprive the owner of reasonable use of the property;

- ii. That the waiver is in accordance with the stated purposes of this UDO as set forth in *Sec. 1.1.4.N.* through *Sec. 1.1.4.Q.*;
  - iii. That the practical difficulties or unnecessary hardship were not created by the owner of the property or the applicant;
  - iv. That the practical difficulties or unnecessary hardship are not solely financial;
  - v. That the waiver will not substantially or permanently injure adjacent property or its improvements;
  - vi. The waiver requested is the minimum required to resolve the difficulties described in *Sec. 10.2.5.E.2.b.i.* above that will make possible the legal use of the land, building or structure; and
  - vii. That the public health, safety and welfare are secured.
- c. Conditions must be reasonably related to the conditions or circumstances that gave rise to the need for a waiver or as an offset to compensate for the granted waiver, conditions may be imposed on any waiver approved by the Board of Adjustment.

### 3. Planning and Development Department Action

- a. Planning and Development has the authority to approve preliminary subdivision plans without review by either the City Council or the Board of Adjustment except in the following situations:
  - i. The preliminary subdivision plan is within a Historic Overlay District or of a designated Historic Landmark;
  - ii. The preliminary subdivision plan is located in a -MPOD, other than single-unit living lots; or
  - iii. A Waiver Request is filed.
- b. After an application has been determined complete, Planning and Development shall give notice of pending review in accordance with *Sec. 10.1.8.* If subsequent to the filing of a completed application, a waiver

from the Board of Adjustment is requested, Planning and Development shall give notice of the requested waiver in accordance with *Sec. 10.1.8.*

- c. In reviewing the preliminary subdivision plan, Planning and Development shall consult with the Public Utilities, Public Works, Parks and Recreation, Inspections and Fire Departments to check the proposed preliminary subdivision plan against the requirements of the City Code and other applicable technical requirements of the City.
- d. Following review of the preliminary subdivision plan for compliance with the City Code and other applicable technical requirements of the City, Planning and Development shall approve, approve with conditions or deny the preliminary subdivision plan. Planning and Development shall keep written records of any action taken.

### 4. Action Following Planning and Development Department Decision

- a. Following the date of the final action, notice of a decision on an administratively reviewed preliminary subdivision plan shall be provided as set forth in *Sec. 10.2.1.C.6.*
- b. Within 30 days after the date of the decision on a preliminary subdivision plan, an appeal of Planning and Development's action may be filed with the Board of Adjustment as set forth in *Sec. 10.2.11.*

### 5. Action Following Preliminary Subdivision Plan Approval

- a. A copy of the preliminary subdivision plan, conforming to all conditions of approval, shall be submitted to Planning and Development, which shall distribute copies to other City departments as necessary.
- b. An application for infrastructure construction plan approval shall be submitted in accordance with *Sec. 10.2.1.B.* The following forms must be filled out completely in order to process an application for construction drawing approval:
  - i. Infrastructure Construction Plan Application; and
  - ii. A Phasing Plan in accordance with the standards of *Sec. 10.2.5.E.7.*
- c. No construction of development-related improvements shall commence until all required construction drawing plans, profiles and specifications have been reviewed and approved by the City or other governmental approving agency and all necessary permits issued.

## 6. Revisions to an Approved Preliminary Subdivision Plan

- a. Minor revisions to an approved preliminary subdivision plan that reflect the same basic street and lot configurations as used for the original approval may be approved by the Planning and Development Officer.
- b. Any request for a revision to an approved preliminary subdivision plan that increases the number of building lots, decreases the amount of common open space or alters a road pattern shall be initiated and processed as a new application for preliminary subdivision plan approval.

## 7. Phasing

- a. If not otherwise set out as part of the preliminary subdivision plan, lots may be recorded and public improvements may be constructed in phases.
- b. The Planning and Development Officer shall ensure that the phasing plan is in accordance with the approved preliminary subdivision plan, this UDO, resolutions of the City Council, and conditions of approval.
- c. The phasing plan shall indicate timing of the construction of public improvements in such a way that the number of lots in each phase is reasonably proportional to the amount of development-related improvements in each phase and that rights-of-way and utility easements are extended in the initial phase of development to all adjacent lots that do not have public street access or access to public utilities.
- d. The number of dwelling units in recorded phases complies with the density requirements of this UDO.
- e. In the recorded phase, all setbacks, neighborhood transition zones, transitional protective yards and other special yard areas are met.
- f. In the recorded phase, off-street parking requirements for the developed portion are observed.
- g. In the recorded phase, the amount of required open space is proportionate to the percentage of land being recorded.
- h. The recorded phase conforms to all of the requirements for a legal lot.
- i. Unrecorded phases may contain inappropriate densities, setbacks, off-street parking spaces and required open space, provided any such phase

at the time of its recordation is combined with other recorded phases of the development so that the combined properties together conform to the density, setback, off-street parking and open space requirements of this UDO.

- j. Any residual portion of development complies with the requirements of a legal lot, including its authorization as a subdivided lot and the following:
  - i. Total acres (gross) recorded;
  - ii. Total acres of right-of-way approved;
  - iii. Total acres of right-of-way dedicated;
  - iv. Total acres (net) approved;
  - v. Total acres (net) recorded;
  - vi. Total acres of open space approved; and
  - vii. Total acres of open space recorded.
- k. Amendments to the phasing plan may be made in conjunction with the review of construction plans, but an updated copy of the new phasing plan must be submitted and placed in the case file maintained by the Planning and Development Officer. If the extent of the amendments has an impact on more than one phase, then a revised preliminary plan will be required.

## 8. Sunsetting of a Preliminary Subdivision Plan

- a. Within 3 years after approval of the preliminary subdivision plan, at least  $\frac{1}{2}$  of the gross land area shown on the preliminary subdivision plan must have a final subdivision plat recorded in the local register of deeds office where the property is located and all remaining portions of the preliminary subdivision plan shall have the final subdivision plat recorded in the local register of deeds office where the property is located within five years from the approval date of the preliminary subdivision plan.
- b. Failure to record final subdivision plats for an approved preliminary subdivision plan within the required time constraints shall automatically void the unrecorded portions of the preliminary subdivision plan unless the Planning and Development Officer finds that all of the following are met:

- i. A written request for an extension has been made to the Planning and Development Officer prior to the expiration period;
  - ii. Unrecorded portions of the preliminary subdivision plan shall conform to all ordinances, laws and City Council resolutions in effect at the time of the requested extension;
  - iii. The preliminary subdivision plan considers and respects the practical limits of public facilities and services such as stormwater, water and sewer lines, streets, fire, public safety and trash collection;
  - iv. The applicant has provided the most recent City of Raleigh inspection report from the Public Works Department demonstrating that the site is currently in compliance and that any previously graded or cleared portion of the site which is not currently under construction is currently and appropriately stabilized to prevent erosion and sediment erosion control problems during the requested extension period; and
  - v. No other extension has been granted.
- c. If all the requirements of *Sec. 10.2.5.E.8.b.* above are met, the Planning and Development Officer shall permit only one 3-year extension calculated from the date the request for extension is approved by the Planning and Development Officer.

## F. Final Subdivision Plat Approval Process

### 1. Applicability

- a. All divisions of land not exempted in *Sec. 10.2.5.B.* shall require final subdivision plat approval as set forth below.
- b. The final subdivision plat shall constitute one or more phases of the approved preliminary subdivision plan.
- c. Approval of the final subdivision plat shall be subject to the installation, acceptance, warranty and as-built drawing of the improvements required in *Chapter 8. Subdivision & Site Plan Standards* or the posting of a construction surety as set forth in *Sec. 8.1.3.*

### 2. Submittal Requirements

- a. An application for final subdivision plat approval shall be submitted in accordance with *Sec. 10.2.1.B.*

- b. The following forms must be filled out completely in order to process an application for final subdivision plat approval:
  - i. Recorded Map Application; and
  - ii. Recorded Map Checklist.
- c. The final plat submission shall contain all of the following.
  - i. The inclusion of all required items as provided in the Recorded Map Application, Recorded Map Checklist and any other checklist contained within the final subdivision plat application forms.
  - ii. Compliance with all requirements of N.C. Gen. Stat. §47-30.
  - iii. A metes and bounds description of all required easements.
  - iv. Executed copies of all legal instruments required by the City in association with development approval.
  - v. Posting of a construction surety as set forth in *Sec. 8.1.3.* for improvements which are not accepted for public maintenance by the City.
  - vi. Tree conservation plats for approved preliminary subdivisions 2 or more acres in size.
  - vii. The final plat and all dedication plats shall contain a ownership certification that certifies and warrants that the undersigned is (are) the sole owner(s) of the property shown on the map or plat and any accompanying sheets having acquired the property in fee simple by deed(s) recorded in the county register of deeds office where the property is located and as such has (have) the right to convey the property in fee simple and that the dedicator(s) hereby agree to warrant and defend the title against any claims of all persons whomsoever excepted as specifically listed herein and that by recording this plat or map I ( we) do irrevocably dedicate to the City of Raleigh for public use all streets, easements, rights-of-way, parks and greenways (as those interests are defined in the City Code) and as the same are shown on the plat for all lawful purposes to which the City may devote or allow the same to use and upon acceptance thereof, in accordance with all City policies, ordinances, regulations or conditions of the City of Raleigh, for the benefit of the public provided any dedication of easements for storm drainage not specifically labeled City of Raleigh or public are not made to the City

of Raleigh, but are irrevocably made to the subsequent owners of any and all properties shown hereon for their use and benefit.

- viii. Delineations of watercourse buffers and impervious surface area limitations for properties located in a -UWPOD, -FWPOD, -SWPOD, -MPOD or CM District.
  - ix. Signature of an official from the North Carolina Department of Transportation if public street right-of-way is involved for lands located outside the City limits.
  - x. Stormwater control facilities, including without limitation, detention facilities, retention facilities, wet ponds, sand filters, wetlands, bio-retention measures, swales and storm pipes required by *Article 9.2. Stormwater Management*, permanently protected undisturbed open space areas, together with showing the means of transporting stormwater runoff to and from any nitrogen reduction and stormwater runoff control measures or facilities.
  - xi. A statement on the plat which lots, by number, are served by which stormwater control facility; the stormwater control facility shall be indicated by type and by its general location.
  - xii. A notation that the dedicators and their successors waive their statutory rights to withdraw dedications of the right-of-way when the public has made reimbursement for the right-of-way or when density has been transferred from the right-of-way.
- d. The applicant shall submit all information, maps and data required by the Planning and Development Officer to properly review the final subdivision plat for conformity with all City ordinances, standards and regulations. For example, building envelopes may be required to show the development potential of any lot and if the lot can not be reasonably developed in accordance with *Article 8.3. Blocks, Lots, Access*, the lot shall not be recorded notwithstanding any prior preliminary subdivision plan approval of the lot.

### 3. Planning and Development Officer Action

- a. After an application has been determined complete, Planning and Development shall review the final subdivision plat for compliance with the approved preliminary subdivision plan and conditions of approval.

- b. In reviewing the final subdivision plat, Planning and Development shall consult with the Public Utilities, Public Works, Parks and Recreation and Fire Departments.
- c. Upon completion of the review, the Planning and Development Officer may meet with the applicant to discuss any changes in development design.
- d. If the final subdivision plat contains the dedication of streets and public easements, the construction of development-related improvements or the establishment of private drainage easements, then Planning and Development shall forward copies of the final subdivision plat to the appropriate City departments for review.
- e. Planning and Development shall complete the review of the final subdivision plat and notify the applicant of nonconformities, omissions or required corrections. If the final subdivision plat is disapproved, the reasons for such disapproval shall be stated in writing, specifying the provisions of the UDO with which the final subdivision plat does not comply. A revised final subdivision plat may be submitted to Planning and Development for further consideration.
- f. Within 20 days after the date of the decision on a final subdivision plat, an appeal of the Planning and Development Officer's action may be filed with the Board of Adjustment as set forth in *Sec. 10.2.11.*
- g. Planning and Development shall approve the final subdivision plat if it conforms with the approved preliminary subdivision plan and conditions of approval, N.C. Gen.Stat. §30-47 and the content requirements for the plat and recorded map checklist.
- h. No final subdivision plat shall be approved until all required public improvements are accepted for public maintenance and completely installed or a construction security is posted with the City as set forth in *Sec. 8.1.3.*

### 4. Action Following Final Approval of the Plat

- a. After a final subdivision plat is approved, the Planning and Development Officer shall certify the plat for recording after the required signatures for recordation have been provided.

- b. The City may, as a precondition for recording lots, require the recording of legal instruments.
- c. The subdivider shall present to the county register of deeds office where the property is located 3 signed copies of the final plat, 1 copy for the register of deeds, a copy for the subdivider and a copy for the City.
- d. Plats presented to and approved for recordation by the City must be recorded on or before the 14th day following the certification of the Planning and Development Officer. The expiration date shall be clearly indicated on the plat. By the end of the next business day following the recordation of the final plat, the subdivider shall provide to Planning and Development evidence of a recorded copy of the certified final plat and the recordation of all legal instruments required by the City in association with development approval.

**5. Revisions to an Approved and Signed Final Subdivision Plat Not Yet Recorded**

Following certification of the Planning and Development Officer, in accordance with *Sec. 10.2.5.F.4.*, no final plat shall be revised, except with the consent of Planning and Development:

- a. When revisions are proposed to an approved final subdivision plat, the applicant shall submit a written request to Planning and Development delineating the revisions and requesting authorization for the revisions.
- b. Revisions to an approved final subdivision plat may only be approved if still in conformance with the approved preliminary plan.
- c. Changes to an approved final subdivision plat not in conformance with the approved preliminary plan must be resubmitted as a new preliminary plan application.
- d. In addition to the written request for revising the final plat and the submittal of a revised final subdivision plat, in all instances the applicant shall submit the required fees to Planning and Development for processing and recording the revised final plat.



## Sec. 10.2.6. Non-Subdivision Final Plat and Recorded Instruments

### A. Applicability

The provisions of this section apply to the following:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots conform with, or exceed, the standards of *Sec. 8.3.3.*, but if the standards of *Sec. 8.3.3.* are not met, the recombination may still be approved if the recombined lots more closely conform to the minimum standards of *Sec. 8.3.3.* than do the existing conditions.
2. The division of land into parcels greater than 10 acres where no right-of-way dedication is involved.
3. The public acquisition by purchase or dedication of strips of land for the widening or opening of streets or for public transportation system corridors.
4. City of Raleigh right-of-way or easement acquisition plats.
5. All other plats or maps, other than subdivision plats, where the existing property boundaries or street rights-of-way are changed or new street rights-of-way are created.
6. All other maps or plats, other than subdivision plats, that are required by State Law to contain a City certification.
7. Except as expressly exempted below, no map or plat shall be filed and recorded with the local register of deeds office for lands within the City or within the City's extraterritorial jurisdiction unless and until it has been submitted and approved as provided in this section.

### B. Exemptions

The following are exempt and are not subject to this section and to the requirements of *Chapter 8. Subdivision & Site Plan Standards* unless otherwise provided.

1. A survey of an existing parcel or parcels of land that does not

create a new street or change an existing street or property boundary.

2. A survey of an existing building or other structure or natural feature, such as a watercourse.
3. A control survey.
4. North Carolina Department of Transportation rights-of-way plans or roadway corridor official maps.
5. Easement plats prepared by utility companies granted the power of eminent domain by N.C. Gen. Stat. §40A-3(a)(1).
6. A map attached to a deed or other instrument submitted for recording in a form for illustrative purposes only that meets the requirements of N.C. Gen. Stat. §47-30(n) and does not convey fee simple property in violation of this UDO.

### C. Pre-Application Conference

Before submitting an application for any division of land greater than 10 acres where no right-of-way dedication is involved, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the consequences for development of a tract without a road network. This requirement may be waived at the discretion of the Planning and Development Officer.

### D. Requirements for Recombinations

#### 1. Recombination by Recorded Maps

The requirements for recombination by recorded map include all of the following:

- a. The resultant lots conform with, or exceed, the standards of *Sec. 8.3.3.*, but if the standards are not met, the recombination may still be approved if the recombined lots more closely conform to the minimum standards of *Sec. 8.3.3.* than do the existing conditions;
- b. The total number of lots is not increased;
- c. The title block contains the word "Recombination";

- d. Structures on the affected lots are shown and the requested recombination does not violate the setback requirements of this UDO and the North Carolina Building Code;
- e. The amount of impervious surface per lot is indicated before and after the recombination. All impervious surfaces and lot areas within a -UWPOD, -FWPOD, -SWPOD, -MPOD or CM District shall be calculated from the adjoining street right-of-way; provided if an expansion of an existing right-of-way or new right-of-way has been established in the Comprehensive Plan, impervious surface and lot areas within the overlay district shall be calculated from the expanded or new right-of-way;
- f. The recombination plat is certified by the Planning and Development Officer and contains the appropriate authorization number to ensure the proper mapping of the resultant lots on the applicable county and City Geographic Information Systems;
- g. The recombination indicates that all resultant lots have the same water and sewer utility access that existed prior to the recombination;
- h. The recombination is certified by the county health department where the property is located that the recombination will not create a violation of setback standards or other standards of the county health department regarding private wells and septic systems;
- i. The recombination does not create the potential of new access points on a Major Street, Mixed Use Street or Thoroughfare in violation of the of the UDO and the Raleigh Street Design Handbook or render any existing driveway access point nonconforming;
- j. The recombination plat conforms to all laws and ordinances for the recordation of maps and includes all information listed in the Recorded Map Checklist form except for information that is uniquely necessary for subdivision plats;
- k. The resultant lots, if located within floodway fringe areas as set forth in *Article 9.3. Floodprone Area Regulations*, conform to the lot coverage limitations of *Sec. 9.3.5.C.*; and
- l. The recombination plat will be processed in accordance with this section.

## 2. Recombination by Recorded Instrument

The requirements for recombination by recorded instrument include all of the following:

- a. The resultant lots conform with, or exceed, the standards of *Sec. 8.3.3.*, but if the standards of *Sec. 8.3.3.* are not met, the recombination may still be approved if the recombined lots more closely conform to the minimum standards of *Sec. 8.3.3.* than do the existing conditions;
- b. The total number of lots is not increased;
- c. The instrument contains a metes and bounds description of the new recombined lots or reference is made to a recorded plat;
- d. The instrument contains a statement as to the total acreage of the affected lots;
- e. The title of the instrument contains the word "Recombination";
- f. The instrument contains a certification that the recombination does not violate the setback requirements of this UDO and the North Carolina Building Code;
- g. The amount of impervious surface per lot is indicated before and after the recombination. All impervious surfaces and lot areas within a -UWPOD, -FWPOD, -SWPOD, -MPOD or CM District shall be calculated from the adjoining street right-of-way; provided if an expansion of an existing right-of-way or new right-of-way has been established in the Comprehensive Plan, impervious surface and lot areas within the overlay district shall be calculated from the expanded or new right-of-way;
- h. The recombination instrument is signed by all property owners;
- i. If the number of lots is reduced, the instrument is to indicate which lots are eliminated;
- j. The recombination instrument is certified by the Planning and Development Officer and the appropriate authorization number is attached to ensure the proper mapping of the resultant lots on the applicable county and City Geographic Information Systems;
- k. The instrument indicates that all resultant lots have the same water and sewer utility access that existed prior to the recombination;
- l. The instrument contains a certification by the county health department where the property is located that the recombination will not create a

violation of setback standards or other standards of the county health department regarding private wells and septic systems;

- m. The recombination does not create the potential of new access points on a Major Street, Mixed Use Street or Thoroughfare in violation of the of the UDO and the Raleigh Street Design Manual or render any existing driveway access point nonconforming;
- n. The resultant lots, if located within floodway fringe areas as set forth in *Article 9.3. Floodprone Area Regulations*, conform to the lot coverage limitations of *Sec. 9.3.5.C.*; and
- o. The recombination instrument will be processed in accordance with this section.

### 3. Limitations on Recombination Approval

No recombination of any property shall be approved pending any application for the rezoning of property unless the recombination is permitted under the existing zoning district of the property and also under the zoning district which is proposed for the property.

## E. Non-subdivision Maps, Plats and Instruments of Recombination Approval Process

### 1. Application Requirements

- a. An application for approval of a non-subdivision final map, plat or recombination instrument shall be submitted in accordance with *Sec. 10.2.1.B.*
- b. The following forms and documents must be completed in order to process an application for non-subdivision final map, plat or recombination instrument recordation approval:
  - i. A Recorded Map Application (recorded plat only);
  - ii. One or more deeds of conveyance, when a recombination changes the boundaries of properties owned by different persons (recorded plat and recombination instrument); and
  - iii. A preliminary plat or an instrument of recombination (recorded plat and recombination instrument).

### 2. Planning and Development Officer Action

- a. After an application has been determined to be complete, Planning and Development shall review the proposed application for compliance with this UDO and the requirements of N.C. Gen. Stat. §47-30.
- b. Upon completion of the review of the initial non-subdivision map, plat or recombination instrument, Planning and Development either shall approve or approve with conditions or reject the application depending on whether it conforms to the applicable UDO provisions and the requirements of N.C. Gen. Stat. §47-30.
- c. An appeal of Planning and Development's decision may be filed with the Board of Adjustment as set forth in *Sec. 10.2.11.*

### 3. Action Following Approval

- a. After a non-subdivision final map, plat or recombination instrument is approved, the Planning and Development Officer shall certify the final map, plat or recombination instrument as exempt from the subdivision regulations of the UDO.
- b. The City may, as a precondition for recording non-subdivision maps, plats and recombination instruments, require the recording of legal instruments.
- c. Non-subdivision plats and recombination instruments presented to and approved for recordation by the City must be recorded on or before the 14<sup>th</sup> day following the signature of the Planning and Development Officer. The expiration date shall be clearly indicated on the recording plat and on the recombination instrument.
- d. By the end of the next business day following the recordation of the non-subdivision final plat or recombination instrument, the applicant shall provide to Planning and Development evidence of a recorded copy of the recombination instrument or certified final plat and the recordation of all legal instruments required by the City in association with the approval.



## Sec. 10.2.7. Plot Plan Review

### A. Applicability

1. No plot plan is required for ordinary maintenance or for any accessory building having an area less than 150 square feet and a roof span no greater than 12 feet.
2. A plot plan is required for certain improvements, as listed below.
  - a. Construction of a fence, wall, gazebo, carport, home swimming pool, deck, porch or patio.
  - b. Construction of a telecommunications tower.
  - c. Installation of signage.
  - d. Temporary uses.
  - e. Food truck permits.
  - f. Construction, reconstruction, addition, repair or alteration of any building, structure, parking facility or a change in use when the amount of required parking as determined in *Article 7.1. Parking*, notwithstanding any variance, credit, nonconformity, exception, special vehicle parking provision, vehicular parking reduction or the existence of any surplus parking, does not increase by 10 spaces or 10%, whichever is less.
  - g. Demolition and replacement of a building, other than a detached house used for single-unit living when all of the following are met:
    - i. The amount of required parking as determined in *Article 7.1. Parking*, notwithstanding any variance, credit, nonconformity, exception, special vehicle parking provision, vehicular parking reduction or the existence of any surplus parking, does not increase by 10 spaces or 10%, whichever is less;
    - ii. The replacement building conforms to all City Code requirements;

- iii. Building permits are issued and foundations are installed for the replacement within 1-year of the demolition permit; and
- iv. All site improvements not limited to required parking, tree protection, landscaping, internal pedestrian walkways, driveways and closings are made in accordance with this UDO.
- h. Construction of a detached house used for single-unit living located on any vacant lot that was lawfully established, including the lawful recombination of lots. Construction of a detached house on lots that were created in violation of this UDO or on recombined lots not approved by the City are not plot plans.
3. No approval of a plot plan shall be conditioned to require public street, open space, drainage or utility dedications or improvements.

### B. Pre-Application Conference

Before submitting an application for plot plan approval, an applicant may schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval.

### C. Application Requirements

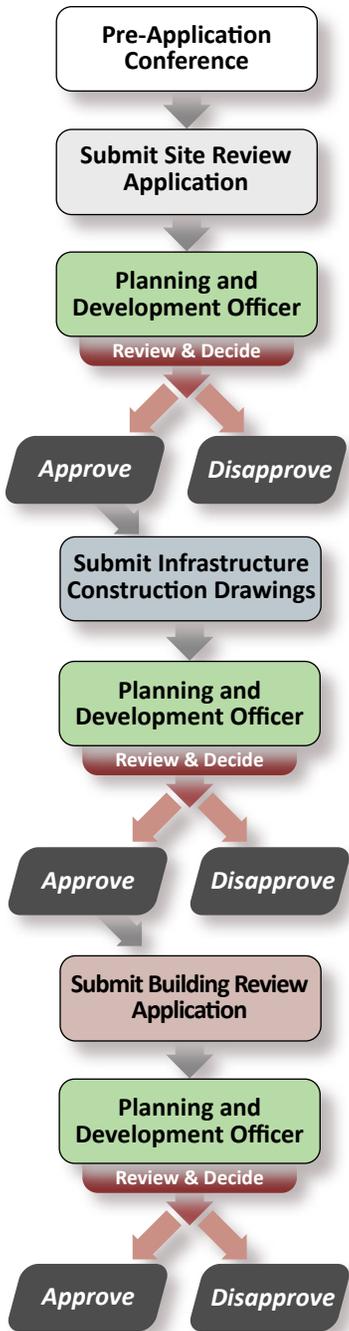
1. An application for plot plan approval shall be submitted in accordance with *Sec. 10.2.1.B*.
2. The following forms must be filled out completely in order to process an application for plot plan approval:
  - a. Plot Plan Submittal Checklist;
  - b. Administrative Alternate Request (see *Sec. 10.2.18.*); and
  - c. Plot Plan Permit Application

#### **D. Planning and Development Officer Action**

1. Planning and Development shall review the proposed application against the requirements of this UDO and other applicable technical requirements of the City.
2. In reviewing the application, Planning and Development may consult with the Public Utilities, Public Works, Transportation, Parks and Recreation, Inspections and Fire Departments.
3. Following review, the Planning and Development Officer shall approve, approve with conditions that bring the application into conformance with this UDO and other applicable technical requirements of the City or deny the application.
4. If the application is disapproved, the reasons for such disapproval shall be stated in writing and provided to the applicant, specifying the provisions of which the application does not comply. A revised application may be submitted to Planning and Development for further consideration.
5. Notice of a decision on an administratively reviewed plot plan shall be provided within 3 days following the date of the final action as set forth in *Sec. 10.2.1.C.6.*
6. An appeal as set forth in *Sec. 10.2.11.* shall be filed by persons who received notice of the decision within 30 days after the date of the application was decided; this time period is applicable to all representatives of such notified persons, including without limitation their tenants and option holders. For all other persons with standing, notice of appeal shall be filed within 30 days after the initiation of site work activities.

#### **E. Expiration**

An approved plot plan shall expire 6 months after the date of approval if a building permit application has not been filed.



## Sec. 10.2.8. Site Plan Review

### A. Applicability

1. Before any permit, not otherwise approved as a plot plan under *Sec. 10.2.7.*, is issued for the construction, reconstruction, extension, repair, renovation or alteration of any building, structure, parking facility, change of use or use of land, whether for any property located within the City or within the City's extraterritorial jurisdiction, a site plan approved in accordance with the provisions of this section shall be submitted to and approved by Planning and Development.
2. Construction of a detached house on a lot that was created in violation of *Sec. 10.2.5.* or on recombined lots not approved by the City in accordance with *Sec. 10.2.6.* are site plans.

### B. Pre-Application Conference

Before submitting an application for site plan review, an applicant may schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval.

### C. Approval Process

#### 1. Site Review

- a. An application for site review approval shall be submitted in accordance with *Sec. 10.2.1.B.* The following forms must be filled out completely in order to process an application for site review approval:
  - i. Site Review Application; and
  - ii. Site Review Checklist;
  - iii. Administrative alternate requests (see *Sec. 10.2.17.*); and
  - iv. Administrative design adjustments (see *Sec. 10.2.18.*).
- b. Planning and Development shall complete the site review and notify the applicant of nonconformities, omissions or

required corrections. If the site review plan is disapproved, the reasons for such disapproval shall be stated in writing, specifying the provisions of the UDO with which the site review plan does not comply. A revised site review plan may be submitted to Planning and Development for further consideration.

- c. Following site review, Planning and Development shall approve, approve with conditions that bring the site review plan into conformance with this UDO and other applicable technical requirements of the City or deny the site review plan. Planning and Development shall keep written records of any action taken.
- d. A sign shall be posted by the property owner on the property for 30 consecutive days, beginning the day of issuance of a zoning permit or site permit by the property owner or the next working day, for the following administrative approvals:
  - i. Where the new building is 25,000 square feet or more in size or any addition that represents an increase of more than 10% of the building area or 25,000 square feet whichever is greater; and
  - ii. Where the property of the approved administrative site plan is located within 100 feet of a property that is zoned R-1, R-2, R-4, R-6 or R-10.
- e. Notice of a decision on an administratively reviewed site plan shall be provided within 3 days following the date the application was decided, as set forth in *Sec. 10.2.1.C.6.*
- f. An appeal as set forth in *Sec. 10.2.11.* shall be filed by persons within 30 days of permit issuance or when a permit is not issued, the decision of approval or denial; this time period is applicable to all representatives of such persons, including without limitation their tenants and option holders.
- g. Upon acceptance of a completed application, the Planning and Development Officer will provide mailed

notice to the State of North Carolina for any site plan located within the Metro-Park Overlay District.

## 2. Infrastructure Construction Plans

- a. An application for construction drawing approval shall be submitted in accordance with *Sec. 10.2.1.B*. The following forms must be filled out completely in order to process an application for construction drawing approval:
  - i. Infrastructure Construction Plan Application;
  - ii. A Phasing plan in accordance with the standards of *Sec. 10.2.5.E.7*;
  - iii. If applicable, a Waiver Request is filed; and
  - iv. If applicable, an Administrative Design Adjustment request is filed.
- b. After an application has been determined complete, Planning and Development shall review the request in accordance with the provisions of this UDO.
- c. No construction of development-related improvements shall commence until all required construction drawing plans, profiles and specifications have been reviewed and approved by the City or other governmental approving agency and all necessary permits issued.
- d. In reviewing the infrastructure construction plan, Planning and Development shall consult with the Public Utilities, Public Works, Transportation, Parks and Recreation, Inspections and the Fire Departments to review the infrastructure construction plan against the requirements of this UDO and other applicable technical requirements of the City. The collective review shall consider the adequacy of public facilities, as described in *Article 8.2. Infrastructure Sufficiency*
- e. Following review, Planning and Development shall approve, approve with conditions that bring the infrastructure construction plan into conformance with requirements of this UDO and other applicable technical requirements of the City, or deny the infrastructure construction plan. Planning and Development Officer shall keep written records of any action taken.

## 3. Waivers

- a. In order to waive or modify any of the regulations or provisions of *Chapter 8. Subdivision & Site Plan Standards* not otherwise permitted, the City Council must hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1.* and give notice as required in *Sec. 10.1.8*.
- b. Before a waiver or modification request is granted, the Board of Adjustment must find all of the following:
  - i. That topography or other existing physical conditions of the property are such that compliance with the requirements under this section or *Chapter 8. Subdivision & Site Plan Standards* would cause an unusual and unnecessary hardship on the developer above and beyond what other developers would meet or deprive the owner of reasonable use of the property;
  - ii. That the waiver is in accordance with the stated purposes of this UDO as set forth in *Sec. 1.1.4.N.* through *Sec. 1.1.4.Q.*;
  - iii. That the practical difficulties or unnecessary hardship were not created by the owner of the property or the applicant;
  - iv. That the practical difficulties or unnecessary hardship are not solely financial;
  - v. That the waiver will not substantially or permanently injure adjacent property or its improvements;
  - vi. The waiver requested is the minimum required to resolve the difficulties described in *Sec. 10.2.8.C.3.b.i.* above that will make possible the legal use of the land, building or structure; and
  - vii. That the public health, safety and welfare are secured.
- c. Conditions must be reasonably related to the conditions or circumstances that gave rise to the need for a waiver or as an offset to compensate for the granted waiver may be imposed on any waiver approved by the City Council.

## 4. Building Review

- a. An application for building or construction permit issuance shall be submitted to Planning and Development in accordance with *Sec. 11.2.1.B*.

- b. A Permit Application must be filled out completely in order to process an application for building review.
- c. No building or construction permit shall be issued for development requiring a site plan until the site review has been approved.
- d. No review of building or construction plans shall occur until a copy of the approved site review plan conforming to all conditions of approval has been received by Planning and Development or the Board of Adjustment has granted a variance authorizing the use of a non-complying site plan element.
- e. In reviewing the building permit application, the Inspections Department will consult with the various building trades of the Department and with the Fire, Utilities and Public Works Departments to check the proposed building plans against the requirements of this UDO and other applicable technical requirements of the City.
- f. The Inspections Department shall complete the review of the building plans and notify the applicant of nonconformities, omissions or required corrections. If the building plans are disapproved, the reasons for such disapproval shall be stated in writing, specifying the provisions of this UDO and other applicable technical requirements of the City with which the building plans do not comply. Revised building plans may be submitted to the Inspections Department for further consideration
- g. Following building review, the Inspection Department shall approve, approve with conditions that bring the building plans into conformance with this UDO and other applicable technical requirements of the City or deny the building plans. The Inspections Department shall keep written records of any action taken.
- h. Prior to the issuance of any building or construction permit for the site, the applicant shall have installed all required improvements as specified in *Chapter 8. Subdivision & Site Plan Standards* or guaranteed their installation as provided in *Sec. 8.1.3*.
- i. An issued building permit expires 6 months after the date of issuance if the work authorized by the permit has not commenced. If after commencement, the work is discontinued for a period of 12 months, the permit shall immediately expire. No work authorized by any permit that has expired shall be performed until a new permit has been obtained.

- j. The approval process for site plans of infrastructure construction plans, final site and building review may at the option of the applicant be done sequentially as listed or combined all in 1 review process or in 2 different review processes provided that order of these processes are not reversed.

#### **D. Revisions to an Approved Site Plan**

Minor revisions to an approved site plan may be approved by Planning and Development without providing additional notice. The following revisions shall be considered minor:

1. Up to a 10% increase or any decrease in gross floor area of a single building;
2. Up to a 10% reduction in the approved setbacks from exterior property lines; and
3. Relocation of parking areas, internal driveways or structures where such relocation occurs more than 100 feet from exterior property lines.
4. All other changes to an approved site plan must be resubmitted as a new application.

#### **E. Expiration of a Site Plan**

A building permit must be obtained from the Inspections Department within 3 years from the date of site plan approval. The site plan shall expire 3 years from the approval date of the site plan unless an applicant has been granted vested rights or unless a valid building permit has been issued by Inspections Department. One 2-year extension to submit a building permit shall be granted by the Planning and Development Officer provided all of the following are met:

1. A written request for an extension has been made to the Planning and Development Officer prior to the expiration period;
2. Unconstructed portions of the approved site plan conform to all ordinances, laws, City policies and provisions of the Comprehensive Plan and other City Council adopted plans in effect at the time of the requested extension;
3. Adjacent streets have not been reclassified the Comprehensive Plan;
4. The plan addresses the adequacy of public facilities and services such as stormwater, water and sewer lines, streets, fire, public safety and trash collection;
5. There shall only be 1 extension permitted, not to exceed a time period of 2

years from the date of receipt by the Planning and Development Officer of the original written request for extension; and

6. Within 4 years after the issuance of the first building permit for the site plan, the construction of the entire site plan must be completed unless an applicant has been granted vested rights. Failure to complete construction within this specified time frame shall automatically void the approved site plan for which no building permits have been issued.



## Sec. 10.2.9. Special Use Permit

### A. Applicability

1. Special uses within each zoning district are uses that may be appropriate in a particular zoning district, but because of the increased potential for incompatibility with adjacent uses, require individual review by the Board of Adjustment.
2. A special use permit is required for all special uses as set forth in *Chapter 6. Use Regulations*

### B. Pre-Application Conference

Before submitting an application for a special use permit, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning and Development Officer.

### C. Application Requirements

1. An application for a special use permit shall be submitted with in accordance with *Sec. 10.2.1.B*.
2. A Special Use Permit Application must be filled out to initiate a request for a special use permit.

### D. Approval Process

#### 1. Planning and Development Officer Action

Planning and Development shall review the application for a special use permit in light of the showings of *Sec. 10.2.9.E* and applicable requirements of *Chapter 6. Use Regulations* and advise the applicant.

#### 2. Board of Adjustment Action

Following notice as required in *Sec. 10.1.8* the Board of Adjustment shall hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1*.

### E. Showings

Before a request for a special use permit is granted, the Board of Adjustment must show that all of the following are met:

1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO;
2. The proposed use is allowed as a special use in the respective zoning district (see *Chapter 6. Use Regulations*);
3. The proposed use complies with any specific use standard listed in *Chapter 6. Use Regulations* without the granting of any variance to the specific use standard;
4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics;
5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied;
6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate;
7. Signage is suitable and appropriate; and
8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

### F. Limits on Approval

Whenever the Board of Adjustment approves a special use permit, approval shall not change the zoning of the property or give the property status as a nonconformity as set forth in *Article 10.3. Nonconformities*

### G. Revisions to an Approved Special Use Permit

An approved special use permit shall not without prior approval of the Board of Adjustment:

1. Change to another use for more than 30 days;
2. Increase its density or intensity;

3. Enlarge, expand or increase its size;
4. Increase the requirements for off-street parking spaces;
5. Substantially change the exterior appearance of buildings; or
6. Add new outdoor equipment and machinery.

#### H. Expiration

1. A special use permit shall expire after 1 year from the date of approval by the Board of Adjustment unless a completed building permit application is submitted or a zoning permit is submitted when no building permit is required, including payment of all fees has been filed by the applicant and accepted by the City.
2. Any appeal of the issuance of the special use permit to Superior Court shall freeze the running of this 1 year period from commencement of the legal challenge until the end of all appeals. Once the use is constructed, the special use permit runs with the land and does not expire except:
  - a. When the Board of Adjustment conditioned the special use permit to a limited defined time period;
  - b. When the special use permit is revoked in accordance with Sec. 10.2.1.D.1.; or
  - c. When the special use is changed to another use for more than 30 days, other than that for which the special use permit was issued or the special use is discontinued or ceased for a continuous period of 365 days or more without the re-approval of the Board of Adjustment. Without the re-approval of the Board of Adjustment, the special use permit is null and void and continuation of the special use is a violation of this UDO.



### Sec. 10.2.10. Variance

#### A. Applicability

The Board of Adjustment has the authority to authorize variances from the provisions of this UDO, subject to the requirements of this section.

#### B. Pre-Application Conference

Before submitting an application for a variance, an applicant shall schedule a pre-application conference with the Planning and Development Officer to discuss the procedures, standards and regulations required for approval. This requirement may be waived at the discretion of the Planning and Development Officer.

#### C. Application Requirements

1. An application for a variance shall be submitted in accordance with *Sec. 10.2.1.B.*
2. A Variance Application must be signed and notarized by the property owner in order to initiate a request for variance.

#### D. Approval Process

##### 1. Planning and Development Officer Action

Planning and Development shall review the application for a variance in light of the showings of *Sec. 10.2.10.D.3.* below and advise the applicant.

##### 2. Board of Adjustment Action

Following notice as required in *Sec. 10.1.8.* and *Sec. 10.2.1.C.,* the Board of Adjustment shall hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1..*

##### 3. Showings

Before a variance request is granted, the Board of Adjustment shall show all of the following:

- a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary

to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

- b. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

#### E. Approval Limitations and Conditions

1. Absent specific authority from this UDO, the Board of Adjustment may not grant a variance which would modify, alter, change or suspend any requirement of a use standard as set forth in *Chapter 6. Use Regulations*
2. In granting a variance, the Board of Adjustment is authorized to attach safeguards and conditions to the approved variance as is necessary and appropriate and reasonably related to the circumstances that gave rise for the need of the variance.

## F. Expiration of Variance

A variance shall expire after 6 months from the date of approval by the Board of Adjustment unless: (i) a completed building permit application, including payment of all fees has been filed by the applicant and accepted by the City; or (ii) the use and structure were previously in existence prior to the requested variance. Any appeal of the issuance of the variance to Superior Court shall freeze the running of this 6-month period from commencement of the legal challenge until the end of all appeals. Once the use is constructed or established, the variance runs with the land and does not expire except:

1. When the Board of Adjustment conditioned the variance to a limited defined time period; or
2. When the variance is revoked in accordance with *Sec. 10.2.1.D.1.*



## Sec. 10.2.11. Appeal of an Administrative Decision

### A. Applicability

Any aggrieved person or any agency, officer, department, board or commission of the City, including the City Council, affected by any decision, order, requirement or determination relating to the interpretation, compliance or application of this UDO as made by an administrative official charged with the administration and enforcement of these provisions of the UDO may file an appeal in accordance with the requirements of this section.

### B. Board of Adjustment

Appeals of an administrative decision are heard by the Board of Adjustment.

### C. Stay of Proceedings

1. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken (in most instances, this will be the Zoning Enforcement Administrator) certifies that, because of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature, a stay would seriously interfere with the effective enforcement of this UDO. In that case, proceedings shall not be stayed except by a restraining order granted by of the reviewing body or a court, issued on application of the party seeking the stay, for due cause shown, with copy of notice to the officer from whom the appeal is taken.
2. An appeal shall not stop action lawfully approved; only actions claimed to be in violation of this UDO shall be stayed.

### D. Filing Requirements

1. An appeal of any administrative decision shall be made by filing a written notice of appeal specifying the grounds for the appeal with the officer from whom the appeal is taken and the reviewing body. Notice of appeal provided to the City Clerk is considered to be notice to the reviewing body.

2. Except when a different time period is established in this UDO, the notice of appeal shall be filed by persons who received either mailed notice or notice of decision pursuant to *Sec. 10.2.1.C.* within 30 days after the date of the application was decided; this time period is applicable to all representatives of such notified persons, including without limitation their tenants and option holders. For all other persons with standing, notice of appeal of any plot plan or site plan shall be filed within 30 days after the receipt from the earlier of any source of actual or constructive notice of the decision within which to file an appeal.
3. A notice of appeal of an administrative decision shall be considered made, when the notice of appeal is provided to the City Clerk and the officer from whom the appeal is taken. The date and time of filing shall be entered on the notice of appeal.
4. In addition to the notice of appeal, within 10 business days from the date of the notice of appeal, an application for an appeal of administrative decision shall be submitted to Planning and Development in accordance with *Sec. 10.2.1.B.*

### E. Approval Process

#### 1. Planning and Development Officer Action

- a. After notice of appeal is provided, the officer from whom the appeal is taken shall transmit to the reviewing body all the papers constituting the record upon which the action appealed from was taken.
- b. Planning and Development shall review the application for an appeal of an administrative decision in accordance with all applicable requirements of this UDO and advise the applicant.
- c. Planning and Development shall provide the notices required in *Sec. 10.1.7.* and *Sec. 10.2.1.C.*

## **2. Reviewing Body Action**

Within 60 days after a completed application of an appeal of an administrative decision is filed, the reviewing body shall hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1.* and provide notice as required in *Sec. 10.2.1.C.6.* Appeals filed to the City Manager shall not be heard at a quasi-judicial public hearing.

## **F. Showings**

The showings for the reviewing body shall be those required for the original decision. The reviewing body may affirm or reverse the officer from whom the appeal is taken based on the applicable standards of this UDO.



## Sec. 10.2.12. Common Signage Plan

### A. Applicability

Prior to the issuance of a sign permit for one or more buildings or businesses in the same project, a common signage plan approved by the Planning and Development Officer in accordance with the requirements of this section shall be required.

### B. Application Requirements

1. An application for a common signage plan shall be submitted in accordance with *Sec. 10.2.1.B*.
2. A Common Signage Plan Application must be filled out in order to process an application for a common signage plan.

### C. Planning and Development Officer Action

1. The Planning and Development Officer shall check the proposed application against the requirements of *Sec. 7.3.16.H* and other applicable technical requirements of the City.
2. In reviewing the application, the Planning and Development Officer may consult with the heads of the departments of Public Utilities, Public Works, Transportation, Parks and Recreation, Inspections and the Fire Department.
3. Following review, the Planning and Development Officer shall approve, approve with conditions that bring the application into conformance with this UDO and other applicable technical requirements of the City or deny the application.
4. If the application is disapproved, the reasons for such disapproval shall be stated in writing and provided to the applicant, specifying the provisions with which the application does not comply. A revised application may be submitted to the Planning and Development Officer for further consideration.
5. The Planning and Development Officer may allow modifications to the lettering style to accommodate state and federally registered trademarks (logos) if the Planning

and Development Officer feels that the intent of the common signage plan requirements is maintained. In allowing modifications, the Planning and Development Officer may limit the logo size. The requirements of a common signage plan shall apply to all tenants within a related project, even if the properties have been subdivided.

6. Within 30 days after the date of the decision, an appeal of the Planning and Development Officer's action may be filed with the Board of Adjustment in accordance with *Sec. 10.2.11*.

### D. Revisions to an Approved Plan

1. Revisions to an approved common signage plan shall require documentation from all tenants on the property prior to approval.
2. It shall be the responsibility of the applicant to enforce the terms of the common signage plan and a current copy of such plan, including any amendments, must be kept on file by the Planning and Development Officer.

### E. Existing Signs Not Conforming to Common Signage Plan

All signs not conforming to the proposed common signage plan shall be required to comply at the time of application for a new sign permit.

### F. Binding Effect

After approval of a common signage plan, no sign shall be erected, placed, painted or maintained, except in conformance with the common signage plan.



### Sec. 10.2.13. Temporary Use Permit

#### A. Applicability

As listed in *Article 6.8. Temporary Uses*, temporary uses occurring on private property outside of the public right-of-way shall be allowed upon the issuance of a temporary use permit by the Planning and Development Officer in accordance with requirements of this section.

#### B. Application Requirements

1. An application for a temporary use permit shall be submitted in accordance with *Sec. 10.2.1.B*.
2. A Temporary Use Permit Application must be filled out in order to process an application for temporary use permit.

#### C. Planning and Development Officer Action

1. The Planning and Development Officer shall check the proposed application against the requirements of this UDO, all other applicable technical requirements of the City and the approval criteria of *Sec. 10.2.13.D*.
2. In reviewing the application, the Planning and Development Officer may consult with the heads of the departments of Public Utilities, Public Works, Transportation, Parks and Recreation, Inspections and the Fire Department.
3. Following review, the Planning and Development Officer shall approve, approve with conditions that bring the application into conformance with this UDO and other applicable technical requirements of the City or deny the application.
4. If the application is disapproved, the reasons for such disapproval shall be stated in writing and provided to the applicant, specifying the provisions with which the application does not comply. A revised application may be submitted to the Planning and Development Officer for further consideration.

5. Within 30 days after the date of the decision, an appeal of the Planning and Development Officer's action may be filed with the Board of Adjustment in accordance with *Sec. 10.2.11*.

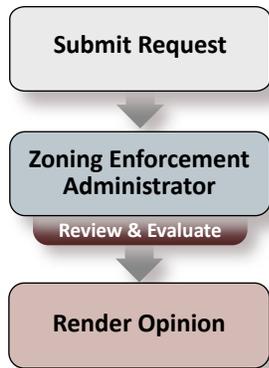
#### D. Approval Criteria

Before a request for temporary use permit is granted, the Planning and Development Officer must find the following:

1. The temporary use complies with any specific standard listed in *Article 6.8. Temporary Uses*;
2. No lighting or electrical service shall be provided without an electrical permit;
3. No structure associated with the temporary use shall be erected without a building permit;
4. All structures shall be cleared from the site within 5 days after the use is terminated;
5. No temporary use structure shall block fire lanes or pedestrian or vehicular access;
6. The site of the temporary use shall be cleared of all debris at the end of the use;
7. Written permission of the property owner for the temporary use shall be provided;
8. Adequate parking shall be provided;
9. Required parking for other uses shall remain available;
10. Evidence that adequate traffic control measures shall be provided;
11. Evidence that adequate provisions for trash disposal and sanitary facilities shall be provided; and
12. When appropriate, adequate provisions for crowd control shall be provided.

#### E. Revocation of Temporary Use Permit

If any conditions of a temporary use permit are violated, the temporary use permit may be revoked by the Planning and Development Officer.



### Sec. 10.2.14. Written Interpretation

#### A. Applicability

The Zoning Enforcement Administrator is authorized to make interpretations concerning the provisions of this UDO.

#### B. Application Requirements

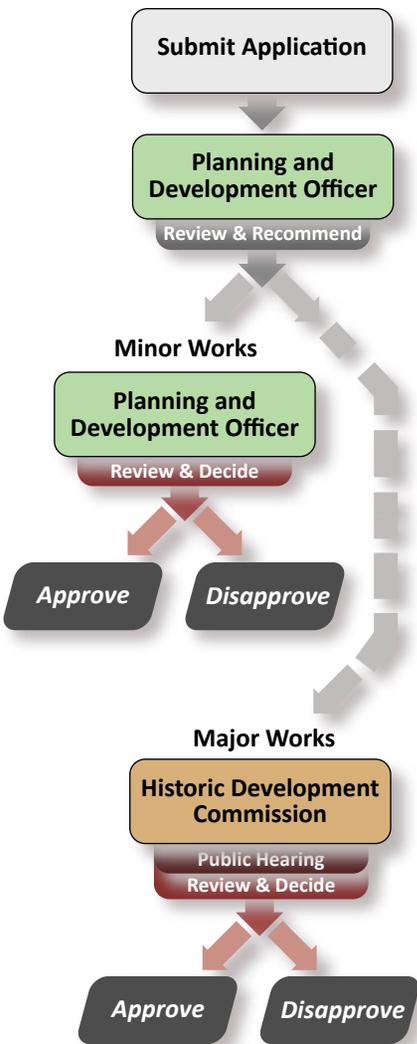
1. An application for an interpretation of this UDO shall be submitted in accordance with *Sec. 10.2.1.C.*
2. A Written Interpretation Application must be completed in order to process a request for a written interpretation.

#### C. Zoning Enforcement Administrator Action

1. The Zoning Enforcement Administrator shall review and evaluate the request for written interpretation in light of the text of this UDO, the Official Zoning Map and any other relevant information.
2. Following review, the Zoning Enforcement Administrator shall render a written opinion within 5 working days after a completed application for a written interpretation is filed. Pursuant to *Sec. 10.2.1.C.6.*, the Zoning Enforcement Administrator shall notify the applicant and the property owner (if the property owner is not the applicant and the question of interpretation relates to a specific tract of land) of the interpretation.
3. All appeals of the Zoning Enforcement Administrator's written interpretation shall be made to the Board of Adjustment in accordance with *Sec. 10.2.11.* within 30 days after the date the written interpretation was decided.

#### D. Official Record

The Planning and Development Officer shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during regular office hours.



## Sec. 10.2.15. Certificate of Appropriateness

### A. Jurisdiction

1. The Historic Development Commission has jurisdiction for certificates of appropriateness for the exterior of all properties within the -HOD-G and -HOD-S.
2. The Historic Development Commission has jurisdiction for certificates of appropriateness for the exterior of Historic Landmarks within Raleigh's zoning jurisdiction.
3. The Historic Development Commission has jurisdiction for certificates of appropriateness for all designated interior spaces of Historic Landmarks within Raleigh's zoning jurisdiction.

### B. Expiration of Certificate of Appropriateness

1. A certificate of appropriateness shall expire 6 months after the date of issuance if the work authorized by the certificate has not been commenced.
2. If after commencement the work is discontinued for a period of 12 months, the permit shall immediately expire.
3. A certificate of appropriateness authorizing demolition shall expire if the work has not been commenced within 6 months after the authorization date set by the Commission. If after commencement the demolition work is discontinued for a period of 12 months, the approval shall immediately expire.
4. No work authorized by any certificate that has expired shall thereafter be performed until a new certificate has been secured.

### C. Application

1. All applications for a certificate of appropriateness are to be filed in the location noted on the current application form provided by the City.
2. The application shall be filed in accordance with the City's filing calendar on the form provided by the City.

3. The application must be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, alterations to designated interior features of Historic Landmarks, additions, changes or new construction. The names and mailing addresses of property owners filing or subject to the application and the addresses of property within 100 feet on all sides of the property which is the subject of the application must also be filed. Multiple copies of the application shall be provided when so required by the instructions on the form provided by the City. No incomplete applications will be accepted.
4. Staff may advise the applicant and make recommendations with regard to appropriateness based upon the adopted historic development standards.

### D. Action on Application for Certificate of Appropriateness

#### 1. Deadline

Applications for certificates of appropriateness shall be acted upon within 90 days after the complete application is filed, otherwise the application shall be deemed to be approved and a certificate of appropriateness shall be issued; provided however, that the Commission may take the matter under advisement for a total period of up to 180 days to receive additional evidence or memoranda of authority requested by the Commission for its consideration. Nothing in this paragraph shall prohibit an extension of time where mutual consent is given.

#### 2. Minor Works

Upon receipt of a completed application, the Planning and Development Officer may issue a certificate of appropriateness for minor works.

#### a. Defined

Minor works are defined as those changes that do not involve substantial alterations, additions or removals

that could impair the integrity of the Landmark property or the Historic Overlay District as a whole. Minor works are limited to those listed in the “Bylaws and Rules of Procedure” of the Historic Development Commission.

**b. Procedure**

- i. Applications for minor works shall be reviewed by the Planning and Development Officer according to the applicable historic development standards.
- ii. A report describing all certificates of appropriateness for minor works shall be forwarded to the Historic Development Commission, for its information, at its next regularly scheduled meeting.
- iii. Failure to approve the requested minor work by the Planning and Development Officer shall in no way interfere with the applicant’s right to be heard by the Historic Development Commission—no application for a certificate of appropriateness may be denied without formal action by the Historic Development Commission.

**3. Notice**

- a. Whenever a hearing on the application is to be heard by the Commission, Planning and Development shall make a reasonable attempt to identify and notify by mail the owners of property within 100 feet on all sides of the property that is the subject of the pending application.
- b. Mailed notices are for the convenience of the property owners and occupants and any defect or their omission shall not impair the validity of issuing a certificate of appropriateness or any following action.

**4. Hearing**

- a. Planning and Development shall transmit the application for a certificate of appropriateness, together with the supporting material, to the review body for its consideration.
- b. Prior to the issuance or denial of a certificate of appropriateness by the Commission, the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.

- c. All meetings of the Historic Development Commission shall be open to the public in accordance with the North Carolina open meetings law, N.C. Gen. Stat. Chapter 143, Article 33B.
- d. Interior arrangement shall not be considered by the review body and no certificate of appropriateness is required for interior repairs or renovations, except for designated interior features of Historic Landmarks.
- e. The review body shall not refuse to issue a certificate of appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features in the –HOD-G, -HOD-S or for Historic Landmarks, which would be incongruous with the special character of the district or Landmark.
- f. The Commission shall render its decision in written form, including its reasons for issuing or denying the certificate and a summary of any citation to the evidence, testimony, studies or other authority upon which it based its decision.
- g. Without objection from any interested parties, the Historic Development Commission may hold summary proceedings on Certificates of Appropriateness. Such proceedings shall be a public meeting and the Commission’s decision shall be rendered in written form.
- h. In all proceedings or public hearings before the Historic Development Commission with regard to an application for a certificate of appropriateness, the burden of producing substantial evidence or testimony is upon the applicant and if the applicant fails to do so, the Commission shall deny the certificate.
- i. Notwithstanding any other provisions of this UDO, the Historic Development Commission may require additional evidence or memoranda of authority to be submitted and may take the matter under advisement until such evidence or memoranda have been submitted and considered up to the 180-day limit established above.
- j. As part of its deliberation, the Commission may view the premises and seek the advice of the North Carolina Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

- k. The Commission's action on the application shall be approval, approval with conditions, deferral or denial.

## E. Demolition of Buildings, Structures and Sites

### 1. General

An application for a certificate of appropriateness authorizing the demolition or destruction of a building, structure or site within any Historic Overlay District or Historic Landmark may not be denied except as provided below for Statewide Significance. However, the authorization date of such a certificate may be delayed for a period of up to 365 days from the date of issuance. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period of delay the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building, structure or site. If the Commission finds that the building, structure or site has no particular significance or value toward maintaining the character of the Historic Overlay District or Historic Landmark, it shall waive all or part of such period and authorize earlier demolition or removal.

### 2. Pending Historic Landmark and within a Pending -HOD-G or -HOD-S

- a. Where the Historic Development Commission has voted to recommend designation of a property as a Historic Landmark or an area as a -HOD-G or -HOD-S and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure proposed as a Landmark or located in the proposed district may be delayed by the Commission for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first.
- b. Should the Council approve the designation prior to the expiration of the 180-day delay period, an application for a certificate of appropriateness for demolition must then be filed; however, the maximum period of authorization date delay for such demolition certificate shall be reduced by the Commission equal to the period of delay while the designation was pending.

### 3. Statewide Significance

An application for a certificate of appropriateness authorizing the demolition or destruction of a building, structure or site determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

### 4. Compliance with Other Law

Issuance of a certificate of appropriateness shall not relieve the applicant, contractor, tenant or property owner from obtaining any other permit required by this UDO or any law.

## F. Appeals

- 1. In any action by the Historic Development Commission granting or denying any certificate of appropriateness issued as a summary proceeding or following a quasi-judicial public hearing, an appeal by an aggrieved party may be taken to the Board of Adjustment. To perfect such an appeal, written notice of intent to appeal must be sent to the Historic Development Commission, postmarked within 20 days following the decision, unless oral notice of appeal is made to the Commission during the meeting at which the decision is rendered. A completed application must then be filed with the Board of Adjustment within 60 days following the decision of the Commission. Appeals shall be in the nature of certiorari.
- 2. The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission or any successor agency. Notice to the Historic Development Commission shall be served on the same day and in the same manner as for the North Carolina Historical Commission unless oral notice of appeal is given to the Historic Development Commission during the meeting at which the decision is rendered. The decision of the North Carolina Historical Commission shall be final and binding upon both the state and the Historic Development Commission.

### **G. Effect of Conflict with Other Ordinances**

Whenever any ordinance adopted pursuant to N.C. Gen. Stat. Part 3C, Article 19, Chapter 160A requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or designated –HOD-G or –HOD-S than are established under any other statute, charter provision or regulation, Part 3C shall govern. Whenever the provisions of any other statute, charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under general statute such other statute, charter provision, ordinance or regulation shall govern.



## Sec. 10.2.16. Historic Landmark Designation

### A. Applicability

1. The City Council shall designate Historic Landmarks.
2. Designations and amendments shall be made in accordance with the provisions of this section. Removing the designation from a Historic Landmark shall also follow the provisions of this section.

### B. Application Requirements

#### 1. Designation Reports

The Historic Development Commission shall make, or cause to be made, an investigation and report on the historical, prehistorical, architectural, archaeological and cultural significance of each building, structure, site, area or object proposed for designation. Applications prepared by owners will be judged by the same criteria as those prepared by the commission. Such reports shall contain the following information:

- a. The name of the property to be considered for designation—both common and historic names, if they can be determined;
- b. The name and address of the current property owner;
- c. The location of the property proposed to be designated historic, including the street address and County tax map and parcel numbers or the parcel identification number;
- d. The date of construction and of any later alterations, if any;
- e. An assessment of the significance of the site or structure based on the criteria for designation cited below;
- f. An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features are proposed to be designated, the report shall contain a description of those features;

- g. A historical discussion of the site or structure within its type, period and locality;
- h. Archival photographs and/or digital images that clearly depict the property proposed to be designated, including views of all facades, pertinent details and siting, as outlined in the supporting information requirements of the current form for Historic Landmark Designation provided by the City; and
- i. A map showing the location of the property, including any outbuildings and appurtenant features.

#### 2. Elements of Ordinances Designating Historic Landmarks:

Ordinances designating historic landmarks shall contain the following elements which shall:

- a. Describe each property designated in the ordinance, including the approximate area of the property so designated;
- b. List the name or names of the owner or owners of the property;
- c. Describe those elements of the property that are integral to its historical, prehistorical, architectural, archaeological and/or cultural significance;
- d. Describe the nature of the commission's jurisdiction over the interior, if any and those interior features of the property to be reviewed for certificates of appropriateness if they are to be changed;
- e. Require, for each building, structure, site, area or object designated as an historic landmark that the waiting period set forth in the general statutes be observed prior to its demolition;
- f. Provide, for each designated historic landmark, a suitable sign or plaque indicating that the property has been so designated. If the owner consents, the sign or plaque shall be placed upon the property; if the owner objects, the sign or plaque shall be placed on a nearby public right-of-way; and

- g. Recite any other information the governing body deems necessary within the authority conferred by the General Statutes.

### C. Approval Process

Ordinances designating Historic Landmarks shall be adopted and amended according to the following procedure.

#### 1. Planning and Development Officer Action

The Planning and Development Officer shall review the designation report and ordinance for conformance to the Application Requirements and provide a report to the Historic Development Commission and City Council that the documents are in conformance with this UDO's requirements.

#### 2. Historic Development Commission Recommendation

The Commission shall forward its recommendation on the report to the City Council. The Council shall refer the report to the State Department of Cultural Resources, Office of Archives and History.

#### 3. Department of Cultural Resources Action

The Department of Cultural Resources, acting through the State Historic Preservation Officer or designee, may make an analysis of and recommendations concerning the report. If the Department does not submit its written comments or recommendations in connection with any proposed designation within 30 days following a written request for such analysis has been received by the department, the Commission and the City Council shall be relieved of any responsibility to consider such comments.

#### 4. Historic Development Commission and City Council Joint Public Hearing

- a. The Historic Development Commission and the City Council shall hold a joint public hearing on the report and proposed ordinance.
- b. Notice of the hearing shall be published at least once in a newspaper generally circulated within the City. Written notice of the hearing shall also be mailed by the Historic Development Commission to all owners and occupants of properties whose identity and current mailing address can be ascertained by the exercise of reasonable diligence.
- c. All such notices shall be published or mailed not less than 10 nor more than 25 days prior to the date set for the public hearing.

- d. The mailed notices in this subsection are for the convenience of property owners and occupants and any defect or their omission therein shall not impair the validity of the public hearing or any action following therefrom.
- e. Following the Joint Public Hearing, the City Council shall refer the proposed ordinance to the Commission for final review and recommendation.

#### 5. Historic Development Commission Action

- a. Taking into consideration the written comments and recommendations of the Department of Cultural Resources and information received during the Public Hearing, if any, the commission shall make a final recommendation to City Council. The commission may recommend any amendments to the report or ordinance.
- b. Upon adoption of the ordinance or any amendments, the commission shall give written notification of such designation to the owners and occupants of each designated historic property, insofar as reasonable diligence permits.
- c. One copy of the ordinance and each amendment shall be filed by the Historic Development Commission in the office of the County Register of Deeds. Each historic property designated as a historic landmark in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office and the Historic Development Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and of each amendment shall be kept on file in the City Clerk's office and shall be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment shall be given to the director of the Inspections Department.
- d. Upon adoption of the ordinance or any amendments, the Historic Development Commission shall give notice to the County tax assessor. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the assessor in appraising it for tax purposes. The fact that a building, structure, site, area or object has been designated a Historic Landmark shall be clearly indicated on all tax maps maintained by the County or City for such period as the designation remains in effect.

## **6. City Council Action**

Following the joint public hearing and upon receipt of the Commission's final recommendation, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary or reject the proposal. If the City Council rejects a designation report, a copy of the minutes of the meeting at which such a decision to reject the report was made shall be mailed to the owner of the property proposed for designation.

## **D. Considerations for Approval**

### **1. Criteria for Designation**

No building, structure, site, area or object shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic Development Commission to be of special significance in terms of its historical, prehistorical, architectural, archaeological and cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and association.

### **2. Limitations on Interior Designation and Review**

Jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned historic landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. If an owner's consent has been filed in the office of the County Register of Deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes, such consent shall bind future owners and/or successors in title. The ordinance establishing the historic designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over those features.



## Sec. 10.2.17. Administrative Alternate

### A. Applicability

The Planning and Development Officer has the authority to approve a request for an administrative alternate as set forth in this UDO. All administrative alternates shall be reviewed in accordance with the provisions of this section and the applicable administrative alternative findings.

### B. Application Requirements

1. An application for an administrative alternate shall be submitted in accordance with *Sec. 10.2.1.B*. A request for an administrative alternate must be submitted at the time of application for a preliminary subdivision plan, plot plan or site plan or at such time the administrative alternate is proposed in conjunction with the review of infrastructure construction plans, a plot plan or site plan.
2. An application for an administrative alternate must be signed and notarized by the property owner in order to initiate a request for an alternate.
3. The applicant shall submit pertinent material necessary for review of the alternate; in addition to the submittal material required for a subdivision, plot plan or site plan. This may include architectural renderings, materials samples or other project-specific information.

### C. Approval Process

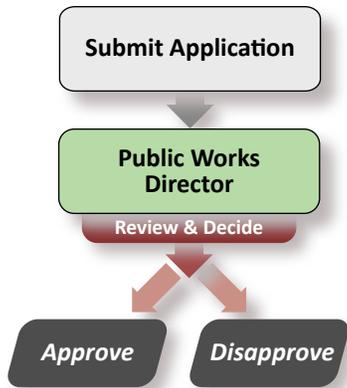
#### 1. Appearance Commission Review

- a. In reviewing the administrative alternate, the Planning and Development Officer shall consult with the heads of the departments of Public Utilities, Public Works, Transportation, Parks and Recreation, Inspections and the Fire Department to check the proposed request against the requirements of this UDO and other applicable technical requirements of the City.

- b. Within 15 days of receipt of the completed application the Planning and Development Officer shall refer the request to the next scheduled Appearance Commission meeting.
- c. Following the submission of a completed application, the Appearance Commission, shall hold a public meeting on the proposed amendment that shall be noticed in accordance with the provisions of *Sec. 10.2.1.C.1.* and *Sec. 10.2.1.C.3.*
- d. The Appearance Commission shall review the request, giving consideration to the intent statements and findings listed for each alternate requested.
- e. Within 21 days of its initial public meeting when the matter was first discussed, the Appearance Commission shall recommend to the Planning and Development Officer approval, approval with conditions or denial of the requested administrative alternate.

#### 2. Planning and Development Officer Decision

- a. The Planning and Development Officer shall consider the applicable intent statements and the administrative alternate findings for the requested administrative alternate and either approve, approve with conditions or deny the request.
- b. The reasons for such approval or disapproval shall be stated in writing. In accordance with *Sec. 10.2.1.C.6.*, notice of the decision shall be provided to the applicant and the property owner (if the property owner is not the applicant) and to each person who has filed a written request for notice with the Planning and Development Officer prior to their decision.
- c. Within 30 days from the date the application was decided, an appeal of the Planning and Development Officer's action may be filed with the Board of Adjustment in accordance with *Sec. 10.2.11.*



## Sec. 10.2.18. Design Adjustment

### A. Applicability

The Public Works Director has the authority to approve a request for a design adjustment set forth in this UDO. All design adjustments shall be reviewed in accordance with the provisions of this section and the applicable design adjustment findings.

### B. Application Requirements

1. An application for a design adjustment shall be submitted in accordance with *Sec. 10.2.1.B*. A request for an design adjustment must be submitted at the time of application for a preliminary subdivision plan, plot plan or site plan or at such time the design adjustment is proposed in conjunction with the review of infrastructure construction plans, a plot plan or site plan.
2. An application for a design adjustment must be signed and notarized by the property owner in order to initiate a request for an adjustment.
3. The applicant shall submit pertinent material necessary for review; in addition to the submittal material required for a subdivision, plot plan or site plan. This may include detailed landscape plans, roadway cross-sections, site or subdivision layout or other project-specific information.

### C. Public Works Director Action

1. In reviewing the design adjustment, the Public Works Director shall consult with the heads of the departments of Planning, Public Utilities, Transportation, Parks and Recreation, Inspections and the Fire Department to check the proposed request against the requirements of this UDO and other applicable technical requirements of the City.
2. The Public Works Director shall consider the applicable intent statements and design adjustment findings for the request and either approve, approve with conditions or deny

the request within 60 days of the receipt of a completed application.

3. Additional review time may be necessary when the design adjustment involves review by another municipal or state entity or when detailed engineering studies are submitted to or required by the Public Works Director.
  - a. The reasons for such approval or disapproval shall be stated in writing. In accordance with *Sec. 10.2.1.C.6.*, notice of the decision shall be provided to the applicant and the property owner (if the property owner is not the applicant) and to each person who has filed a written request for notice with the Public Works Director prior to their decision.
  - b. Within 30 days from the date the application was decided, an appeal of the Public Works Director's action may be made to the Board of Adjustment in accordance with *Sec. 10.2.11.*



### Sec. 10.2.19. Vested Rights

#### A. Applicability

Those landowners desiring the protections granted by N.C. Gen. Stat. §160A-385.1 may, at their own option, request the City Council to hold a public hearing on an site plan.

#### B. Application Requirements

An application for a vested right determination shall be submitted in accordance with *Sec. 10.2.1.B.*

#### C. City Council Action

1. Following notice as required in *Sec. 10.1.8.*, the City Council shall hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1.*
2. The City Council may impose conditions and terms on any site plan or plot plan for which a vested rights hearing has been requested by the landowner.
3. Before a request for a vested right is granted, the City Council must find that all of the following are met.
  - a. The approved site plan or plot plan complies with all applicable provisions of this UDO and other applicable technical requirements of the City;
  - b. If the approved site plan or plot plan was conditionally approved upon the obtaining of any governmental approval and or street closing, such governmental approvals and street closings were in fact obtained.
  - c. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate.
  - d. The lot upon which the site plan or plot plan is located complies with approved subdivision plans for the site.
  - e. The site plan or plot plan coordinates with existing and planned public facilities, such as and without limitation:
    - i. Stormwater drainages structures;
    - ii. Public utilities;

- iii. Street and sidewalk and on-street parking;
- iv. Parks, greenways and governmental recreational facilities;
- v. Fire stations and community service facilities;
- vi. Trash collection; and
- vii. Transit stops and facilities.

4. Approval of a vested rights site plan or plot plan with the condition that a variance or special use permit be obtained shall not confer a vested right unless and until the necessary variance or special use permit is obtained. In all other instances, the approved plan shall be deemed vested upon approval by the City Council. The City Council shall not require landowners to waive their vested rights as a condition of approval of the plan.

#### D. Action Following Approval

1. Following the vesting of a site plan, the landowners and their successors shall be entitled to submit to the Planning and Development final plans, together with any valid building permit applications of the total area of any section or phase of the approved vested plan, within a period of not more than 2 years after the approval of the vested site plan or plot plan.
2. If submissions were timely made and if within 3 years after approval of building permit applications, at least ½ of the total floor area gross shown on the vested plan is completed, building permit applications for the remaining portions of the vested site plan for which no previous valid building permit applications has been filed, shall be processed by the City for an additional period not exceeding 5 years from the approval date of the plan.
3. Following the approval or conditional approval of a vested site plan, nothing in this section shall exempt such plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, the UDO

existing at the time of approval and subsequent laws as permitted in *Sec. 10.2.19.D.5.* below.

4. If noncompliance is discovered, revocation of the site plan or plot plan and remedies authorized by *Article 10.4. Enforcement* may be undertaken by the City, notwithstanding the vesting of the site plan.
5. Site plans which are vested under this section shall be subject to new or amended zoning regulations as allowed by State law and such vested rights shall terminate for any of the reasons stated in N.C. Gen. Stat. 160A-385.1(e).

## Article 10.3. Nonconformities

### Sec. 10.3.1. In General

#### A. Public Safety

Repairs required for public safety because of unsafe conditions or by either the Housing Code or North Carolina State Building Code may be made in any amount unless the repairs are caused by a casualty, in which case the provisions of Sec. 10.3.2.G. or Sec. 10.3.3.G. shall apply in lieu of this provision.

#### B. Reservation of Authority

Notwithstanding the policies and provisions of this Article with respect to nonconformities, the City expressly reserves its authority to initiate criminal and civil proceedings against unlawful uses, buildings, structures and lots, including those which unlawfully existed here before and to control or abate noxious uses, to require the repair or demolition of unsafe buildings or structures or to control or eliminate public health nuisances through the exercise of any powers authorized by the City Code and the North Carolina General Statutes.

### Sec. 10.3.2. Nonconforming Uses

#### A. Authority to Continue

1. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming use may continue in operation on the same land area and on the same floor area of the structure that was occupied by the nonconforming use on the date the use first became a nonconforming use. The continuation of a nonconforming use shall not be constructed to permit an increase in the number of dwelling units or a reduction of land area to the number of dwelling units
2. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming structure

#### B. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to

improve handicapped accessibility, painting, fencing and landscaping, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 10.3.2.C. through Sec. 10.3.2.G. Expenditures in any amount may be to either bring the nonconformity into full compliance with this UDO or to amortize the nonconformity.

#### C. Extensions

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity, unless a special use permit is issued by the Board of Adjustment for such extension or expansion. Such prohibited activity shall include, without being limited to:

1. Extension of the use to any structure or land area other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.
2. Extension of the use within a building or other structure to any portion of the floor area that was not occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes the use to become otherwise nonconforming.
3. Operation of the nonconforming use in such a manner as to conflict with this UDO, or to further conflict with this UDO, if already conflicting as of September 1, 2013, or any amendments to this UDO is applied to the property, any use limitations established for the district in which the use is located.
4. New construction, reconstruction or structural alteration except those described as ordinary repair and maintenance in Sec. 10.3.2.B. above.

#### D. Relocation

1. No structure that is devoted in whole or in part to a nonconforming use shall be relocated in whole or in part to any other location on the same or any other tract or lot unless the entire structure and the use of the structure shall conform to all the regulations of the district to which the structure and use are relocated.
2. No nonconforming use of land shall be relocated in whole or in part to any other location on the same or any other lot unless such use conforms to all the regulations of the district to which the use of land is relocated.

### E. Change in Use

A nonconforming use of land or of a structure shall not be changed to any use other than a use permitted in the zoning district in which the land or structure is located. When a nonconforming use has been changed to a permitted use, it shall only be used thereafter for a use permitted in the zoning district in which it is located. For purposes of this paragraph, a use shall be deemed to have been changed when an existing nonconforming use has been terminated and the permitted use has commenced and continued for a period of 7 days.

### F. Abandonment or Discontinuance

1. When a nonconforming use of land or a nonconforming use of part or all of a structure is discontinued, vacated or abandoned for a period of 365 consecutive days or more, the use shall not be reestablished or resumed.
2. Operation of any nonconforming use without a license or permit required of the owner or operator, for 365 consecutive days, shall constitute a termination of the nonconforming use.
3. Following the abandonment or discontinuation of a nonconforming use, any subsequent use or occupancy of land or structure shall comply with the regulations of the zoning district in which the land or structure is located.

### G. Damage or Destruction

1. In the event that a conforming structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50% of the replacement cost of the structure immediately prior to such damage, such structure shall not be restored unless the structure and the use will conform to all regulations of the district in which the structure and use are located or unless a special use permit is issued by the Board of Adjustment for such restoration.
2. In the event that a conforming structure that is devoted in whole or in part to a nonconforming use is damaged or partially destroyed, by exercise of eminent domain riot, fire, accident explosion, flood, lightning, wind or other calamity or natural cause to the extent of 50% or less of the replacement cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree as it was before the damage or destruction, provided that such repair or reconstruction is commenced with a valid building permit within 12 months of the date of such damage or destruction.

3. If a nonconforming use is located within an Airport Overlay District, the following shall apply:
  - a. No renovation, maintenance or repair shall be made if the damage or destruction is more than 80% of its replacement cost immediately prior to such damage, unless the nonconformity is brought into compliance with this UDO; or
  - b. A special use permit is issued by the Board of Adjustment for such restoration and the restoration does not create a greater hazard to navigation than the previously existing nonconformity.
4. Replacement cost shall be determined by either:
  - a. The median value based Square Foot Costs established by the most recent edition of Building Construction Cost Data published by R.S. Means; or
  - b. The most recent tax value for building as reported in the county tax office where the property is located. The property owner shall decide which of the 2 methods for determining replacement cost is to be used.
5. The percent of damage shall be calculated by using the selected replacement value of the entire structure as the denominator and by using the selected replacement value of the damaged portion of the structure as the numerator. The same method used to determine replacement value for the denominator must be used.

### Sec. 10.3.3. Nonconforming Principal Structures

#### A. Applicability

This section applies to all nonconforming principal structures and not to nonconforming accessory buildings, accessory structures, fences, signs, off-street parking, vehicular surface areas, private access points and outdoor lighting (see Sec. 10.3.4.)

#### B. Authority to Continue

Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming so long as it remains otherwise lawful.

#### C. Ordinary Repair and Maintenance

1. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to improve handicapped accessibility, painting, fencing and landscaping, wiring or plumbing, may be performed on any nonconforming structure; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 10.3.3.C. through Sec. 10.3.3.F. Expenditures in any amount may be to either bring the nonconformity into full compliance with this UDO or to amortize the nonconformity.
2. Repairs maintenance and renovations to nonconforming residential buildings (detached house, attached house, townhouse and apartment) used exclusively for household living as set forth in Sec. 6.2.1. may be made in any amount and for any purpose except as restricted by Sec. 10.3.3.D. or Sec. 10.3.3.G.1. below.

#### D. Enlargement

Any nonconforming structure used for a conforming use may be enlarged or altered which does not exceed, singularly or collectively, 25% of the floor area gross of the original nonconformity; provided, however, that no enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.

#### E. Relocation

No nonconforming structure shall be relocated in whole or in part to any other location on the same or any other lot unless the entire structure conforms to the regulations of the district to which such structure is relocated.

#### F. Voluntary Demolition

Nothing shall be deemed to permit the reconstruction of any part of a nonconforming structure that has been voluntarily demolished.

#### G. Damage or Destruction

1. In the event that a nonconforming structure that is devoted in whole or in part to a conforming use is damaged or partially destroyed, by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause to the extent of more than 50% of the replacement cost of the structure immediately prior to such damage, such structure shall not be restored unless the structure and the use will conform to all regulations of the district in which the structure and use are located or unless a special use permit is issued by the Board of Adjustment for such restoration.
2. In the event that a nonconforming structure that is devoted in whole or in part to a conforming use is damaged or destroyed, by any means other than voluntary demolition, to the extent of 50% or less the replacement cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree as it was before the damage or destruction, provided that such repair or reconstruction is commenced with a valid building permit within 12 months of the date of such damage or destruction
3. If the nonconforming structure is located within an Airport Overlay District, the following shall apply:
  - a. No renovation, maintenance or repair shall be made if the damage or destruction is more than 80% of its replacement cost immediately prior to such damage, unless the nonconformity is brought into compliance with this UDO; or
  - b. A special use permit is issued by the Board of Adjustment for such restoration and the restoration does not create a greater hazard to navigation than the previously existing nonconformity.

4. Replacement cost shall be determined by either:
  - a. The most recent edition of Building Construction Cost Data published by R.S. Means; or
  - b. The most recent tax value for building as reported in the county tax office where the property is located. The property owner shall decide which of the 2 methods for determining replacement cost is to be used.
5. The percentage of damage shall be calculated by using the selected replacement value of the entire structure as the denominator and by using the selected replacement value of the damaged portion of the structure as the numerator. The same method used to determine replacement value for the denominator must be used.
6. Nothing in this paragraph shall prevent the rebuilding, reconstruction or restoration of a structure because such structure fails to conform to the standards of a Neighborhood Conservation Overlay District.

#### H. Replacement of Manufactured Homes

Replacement of nonconforming manufactured homes that fail to meet the minimum standards of the National Manufactured Home Construction and Safety Standards shall be permitted, provided that all of the following are met:

1. The replacement manufactured home meets the current minimum required standards as prescribed by the United States Department of Housing and Urban Development (HUD).
2. The newly installed manufactured home, if located in a flood prone area, complies with the provisions of *Article 9.3. Floodprone Area Regulations*
3. That the period of time between the time the nonconforming manufactured home is removed and the time it is replaced with a standard manufactured home is less than 365 days.
4. The number of manufactured homes is not increased.
5. The floor area gross of the new manufactured home does not exceed the floor area gross of the manufactured home it replaced by more than 25%.

#### Sec. 10.3.4. Nonconforming Site Elements

Subject to the provisions contained in this section and all other applicable provisions of this UDO, one or more of the following activities and improvements can be made to nonconforming accessory buildings, accessory structures, fences, signs, off-street parking, vehicular surface areas, private access points and outdoor lighting. Improvements and activities that are not explicitly authorized by in this section are not allowed. The following allowed activities and improvements can be initiated without the issuance of a special use permit by the Board of Adjustment.

##### A. Renovation, Ordinary Maintenance and Repair

1. The cost of renovation and ordinary maintenance and repair to any nonconforming accessory building, accessory structure, fence, vehicular surface area, private access point and outdoor lighting shall not during any 1 calendar year exceed 15% of the tax value of the zoning nonconformity in the county where the property is located, or if there is no listed tax value, the original cost of the nonconformity.
2. The limitation on expenditures established here does not apply to *Sec. 10.3.4.B. through Sec. 10.3.4.G. below*.
3. Ordinary maintenance and repair shall be limited to work necessary to maintain and correct any damage, other than caused by casualty or deterioration to the structural soundness or features of an accessory building, accessory structure, fence, vehicular surface area, private access point or outdoor lighting.
4. For damage to any nonconformity that is caused by any casualty, the provisions of *Sec. 10.3.4.E. below* apply in lieu of this provision.
5. The regulations for ordinary maintenance and repair of nonconforming signs are set forth in *Sec. 7.3.17.*

##### B. Casualties

The rebuilding, reconstruction or restoring of any nonconforming accessory building, accessory structure, fence, vehicular surface area, private access point and outdoor lighting which was damaged or partially destroyed by a casualty, which includes the exercise of eminent domain, riot, fire, accident, explosion, lightning, flood, wind or other calamity or natural act, is allowed provided all of the following conditions are met:

1. The cost of rebuilding, reconstructing and restoring the nonconformity is less than 50% of either its listed property tax value of the zoning nonconformity in the county where the property is located or, if there is no listed property tax value, the original cost of the nonconformity.
2. The nature and degree of the nonconformity is not expanded, extended or increased from that which existed prior to the damage or destruction, nor is it altered or changed except as otherwise allowed as a renovation in Sec. 10.3.4.A. above.
  - a. Reconstruction and repair is commenced with a valid building permit within 12 months of the date of such damage or destruction
  - b. If the cost of the rebuilding, reconstruction or restoration will be 50% or more of either the listed property tax value in the county where the property is located or if there is no listed property tax value the original cost of the nonconformity, the nonconforming accessory building, accessory structure, fence, vehicular surface area, private access point or outdoor lighting shall not be rebuilt, reconstructed or restored except in compliance with this UDO.

### C. Expansions

Additions to the number of off-street parking spaces and expansions to vehicular surface areas shall be governed by *Article 7.1. Parking* In addition, expansions to vehicular surface areas to serve any zoning nonconforming use shall in addition to these standards be subject to all the requirements of *Sec. 10.3.6.A.3.*, including the requirement.

### D. Resumptions

Any nonconforming accessory building, accessory structure, sign, vehicular surface area, private access point or outdoor lighting, which is discontinued, unused or unoccupied for a continuous period of 365 days or more may not be restarted, resumed or reoccupied.

### E. Substitution of Impervious Surfaces

Substitution of impervious surfaces for 1 use, facility, building or structure, vehicular surface area or access point to another provided all of the following are met:

1. The amount and extent of impervious surfaces is not increased.
2. The placement of those new impervious surfaces conforms to the requirements of this UDO.
3. The impervious surface is for a lawful activity.

### F. Zoning Nonconformities Brought Into Compliance

Expenditures to bring any nonconforming accessory building, accessory structure, fence, sign, off-street parking, vehicular surface areas, private access point or outdoor lighting into full compliance with the City Code are allowed in any amount. The owner may secure any permit or approval and make any alteration that will bring the zoning nonconformity into full compliance.

### G. Amortizing a Nonconformity

Expenditures required by this UDO to amortize a nonconformity are permitted in any amount.

## Sec. 10.3.5. Nonconforming Lots of Record

### A. Authority to use For Single-Unit Living

In any district in which a single-unit living detached house is allowed as a permitted use, notwithstanding the regulations imposed by any other provisions of this UDO, a single-unit living detached house which complies with the restrictions of *Sec. 10.3.5.B.* below may be erected on a nonconforming lot that:

1. Has less than the prescribed minimum lot area or width; and
2. Is shown by a recorded plan or deed to have been a lot of record owned separately and individually from adjoining tracts of land at a time when the creation of a lot or tract of such area and depth at such location would not have been prohibited by any zoning or other ordinance.

## B. Regulations for Single-Family Use of Nonconforming Lots

A nonconforming lot authorized to be used pursuant to *Sec. 10.3.5.A.* above may be used for a single-unit living detached house and permitted accessory uses and structures. Construction of the single-unit living detached house shall comply with all the regulations, except lot area or width, applicable to the detached house in the district in which the lot is located, unless a variance is granted pursuant to *Sec. 10.2.10.*

## Sec. 10.3.6. Special Use Permits for Nonconformities

### A. Special Use Permit Required

All special use permits authorized in this section shall be processed, noticed and heard in accordance with *Sec. 10.2.9.* After the issuance of a special use permit by the Board of Adjustment in accordance with *Sec. 10.3.6.B.*, one or more of the following activities can be made to a zoning nonconformity.

1. Repair and maintenance work not authorized by either *Sec. 10.3.2.B.* or *Sec. 10.3.3.B.*
2. Fixing and replacing damage and destruction authorized by *Sec. 10.3.2.G.1.* and *Sec. 10.3.2.G.3.* and by *Sec. 10.3.3.G.1.* and *Sec. 10.3.3.G.3.*
3. The expansion, extension or alteration of a nonconforming use or vehicular surfaces serving a nonconforming use (including nonconforming principal use parking facilities) when all of the following are met:
  - a. The expansion, extension or alteration complies with all requirements of this UDO including but not limited to: height, bulk, setback, off-street parking, impervious surface coverage and access.
  - b. The expansion, of a nonconforming use does not, singularly or collectively, exceed 25% of the total gross area occupied by the original nonconforming use. If the original nonconforming use occupied a portion of a building and that building has not been enlarged since the establishment of the nonconformity, that original nonconforming use may be extended beyond 25% within the interior portions of the building.
4. The change of an existing nonconforming use to another nonconforming use provided that all of the following are met:
  - a. The use will have no greater adverse affect on the surrounding property in terms of automobile or truck traffic, on-street parking, noise, stormwater, vibration and hours of nighttime operation than the existing use.
  - b. Any change to a limited use or special use complies with applicable requirements of *Chapter 6. Use Regulations*
  - c. The proposed substitute nonconforming use is allowed in the zoning district of the highest classification in which the existing nonconforming use would be a conforming use. The determination of the classification of the use shall be based on Planning and Development Officer.
  - d. Once a nonconforming use is changed to a higher classification, it may not thereafter be changed to a nonconforming use of a lower classification, including a change back to the original nonconforming use.
  - e. The substitution of a nonconforming impervious surface for another, the replacement of a substandard nonconforming manufactured home and the change of use of a nonconforming use to a conforming use may all be done without a special use permit from the Board of Adjustment if the applicable provisions of *Sec. 10.3.5.*, *Sec. 10.3.3.E.*, *Sec. 10.3.2.B.* and *Sec. 10.3.3.B.* are met.
5. The relocation onto its same premise of either a nonconformity or a nonconforming private access point, is allowed; provided the relocation reduces the extent of the nonconformity and more closely conforms to the standards contained in this UDO.
6. The expansion, change, addition and alteration of a building or use which fails to comply with the regulations of a -TOD, -NCOD, -MPOD, CM District; provided all of the following are met:
  - a. The expansion does not, singularly or collectively, exceed 25% of the total gross floor area of the building or use existing at the time the zoning district regulations was first applied to the property.
  - b. The building or use existed at the time the zoning district regulations were applied to the property.
  - c. The proposed activity complies with all requirements and regulations of this UDO other than the zoning district regulations.

## B. Showings for Granting Special Use Permit for Nonconformities

1. Before a request for the special use permit is granted, the Board of Adjustment must show that all of the following are met :
  - a. The applicable standards of this section have been met;
  - b. All of the showings of *Sec. 10.2.9.E.* have been met; and
  - c. The requested repair, reconstruction, expansion, change of use to a different nonconforming use or relocation will not be injurious to property or improvements in the affected area.
2. In acting upon a petition for a special use permit, the Board cannot order the discontinuance or termination of the nonconformity.
3. If a special use petition is denied, the continuation of the nonconformity and the activities allowed in *Sec. 10.3.2.* and *Sec. 10.3.3.* without a special use permit is still allowed unless otherwise prohibited by law. This policy is adopted to encourage the owners of nonconformities to apply for special use permits to improve and bring into conformance to the extent possible their property.

## Article 10.4. Enforcement

### Sec. 10.4.1. Violations and Violators

- A. Each of the following are declared to be violations of the Raleigh City Code:
1. Any person owning, leasing, using, managing or occupying any building, sign, structure or land where there is placed, removed, altered, expanded or there now exists any thing contrary to *Chapter 1. Introductory Provisions* through *Chapter 7. General Development Standards* and *Chapter 11. Building and Housing Code*; any regulation, rule or order adopted pursuant to the applicable chapter; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this UDO; or a lawful plan approved under this UDO.
  2. Any architect, designer, engineer, agent or any other person who acts in concert, participates, directs or assists in the creation or continuation of a violation of *Chapter 1. Introductory Provisions* through *Chapter 7. General Development Standards* and *Chapter 11. Building and Housing Code*; any regulation, rule or order adopted pursuant to this UDO; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this UDO; or a lawful plan approved under this UDO.
  3. Any builder, contractor or any other person who shall erect, expand, relocate, reconstruct, alter or use any land, structure, sign, tree or building contrary to *Chapter 1. Introductory Provisions* through *Chapter 7. General Development Standards* and *Chapter 11. Building and Housing Code*; any regulation, rule or order adopted pursuant to this UDO; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this UDO; or a lawful plan approved under this UDO.
  4. Any person, who shall fail, neglect or refuse to do any act as required by *Chapter 1. Introductory Provisions* through *Chapter 7. General Development Standards* and *Chapter 11. Building and Housing Code*; any regulation, rule or order adopted pursuant to this UDO; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this UDO; or a lawful plan approved under this UDO.
- B. The term "lawful plan" as used here shall mean a plot plan, site plan, Master Plan, Neighborhood Plan or Streetscape Plan.

- C. The terms contrary to or violation of a lawful plan include the establishment, creation, expansion, alteration, relocation, occupancy or continuation of any use, building or structure for which a plan is required except in accordance with the terms, conditions and provisions of the approved lawful plan.
- D. The enumeration of these declared violations shall not be deemed exclusive or all-inclusive. All persons who shall commit violations shall be held responsible and shall be subject to the penalties and remedies provided in *Sec. 1.1.10.* and *Sec. 10.4.2.* Each day's continuing violation shall be a separate and distinct violation or offense.

### Sec. 10.4.2. Civil Penalty

#### A. General

1. Any act constituting a violation of *Chapter 1. Introductory Provisions* through *Chapter 7. General Development Standards* and *Chapter 11. Building and Housing Code* shall subject the offender to a civil penalty to be recovered by the City in a civil action in the nature of a debt or as otherwise provided herein if the offended fails to pay the penalty within 48 hours from and after receipt of a citation of a violation.
2. All violations shall be subject to a civil penalty in the amount of one \$100 unless a higher amount is otherwise specified in this UDO; continuous violations shall be subject to a civil penalty in the amount specified in subsection e., below.

#### B. Citation Contents

A zoning violation citation shall, among other things:

1. State upon its face the amount of the penalty for the specific violation if the penalty is paid within 48 hours from and after issuance of the citation.
2. Notify the offender that a failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty plus any additional penalties, together with the cost of the action to be taxed by the court.
3. Further provide that the offender may answer the City zoning citation by mailing the citation and the stated penalty to Post Office Box 590, Raleigh, North Carolina 27602 or may pay the amount at the cashier's window on the fourth floor, One Exchange Plaza.

4. That the penalty must be either paid or the failure to pay must be cleared with the Planning and Development Officer, within 48 hours of the issuance of the citation. The notice shall further state that if the zoning violation citation is not cleared within 48 hours, court action by the filing of a civil complaint for collection of the penalty may be taken. As used upon the zoning violation citation, the word "cleared" shall mean either:
  - a. Payment;
  - b. Arrangement for payment to be made; or
  - c. A prima facie showing to the Planning and Development Officer that the zoning citation was received as a result of mistake, inadvertence or excusable neglect.

### C. Settlement of Civil Claim

1. The Planning and Development Officer is authorized to accept payment in full and final settlement of the claim or claims, right or rights of action which the City may have to enforce such penalty by civil action in the nature of debt.
2. Acceptance of a penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations, only if the activities or non-activities which gave rise to the violations are abated or otherwise made lawful.

### D. Additional Penalty

A penalty of \$25, in addition to the one imposed for payment within 48 hours, shall apply in those cases in which the penalties prescribed in this section have not been paid within the prescribed 48 hour period and in which a civil action shall have been instituted.

### E. Civil Penalties for Continuing Violations

1. No civil penalty shall be levied against the same person for the same continuing violation at the same location more than once unless and until the Planning and Development Officer shall provide to the person to be assessed continuing civil penalties a written notice containing the following:
  - a. The nature of the violation;
  - b. An order directing corrective action;
  - c. The date when corrective measures must be completed; and

- d. A statement that failure to correct the violation by the specified date will result in the assessment of additional civil penalties and other enforcement action.
2. If after the allotted time period for corrective measures has expired and after the hearing of any appeal, if any, by the Board of Adjustment corrective action has not been completed, a civil penalty shall be assessed in the amount of \$500 per day of continuing violation.
3. Written notices may be served by personal service or by registered or certified mail, return receipt requested. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service by first class mail shall be deemed sufficient if:
  - a. The registered or certified mail is unclaimed or refused, but the first class mail is not returned by the post office within 10 days after the mailing; and
  - b. The Planning and Development Officer has reasonable grounds to believe that the address used for the first class mailing is an address that will actually reach the person to be served.
4. If first class mail is used, a notice of the pending proceedings shall also be posted in a conspicuous place on the premises where the violation exists.
5. If the identities or whereabouts of persons are unknown and cannot be ascertained by the Planning and Development Officer in the exercise of reasonable diligence, then the notice may be served by publication in a newspaper having general circulation in the City. The notice shall be published at least once and publication shall occur no less than 30 days prior to the deadline for corrective action contained in the notice. When the notice is served by publication, a copy of the notice shall also be posted in a conspicuous place on the premises where the violation exists.

### Sec. 10.4.3. Administrative Fee

Any person who shall commit a violation of *Chapter 1. Introductory Provisions* through *Chapter 7. General Development Standards* and *Chapter 11. Building and Housing Code*, receives official notice from the City of the violation and fails to remedy the violation within the time period specified such that a zoning violation citation is issued shall be subject to an administrative fee of \$100 in addition to any other charge.

# CHAPTER 11. BUILDING AND HOUSING CODE

<b>Article 11.1. Adoption of Codes by Reference</b>	<b>11 – 3</b>	<b>Article 11.5. Unsafe Buildings</b>	<b>11 – 18</b>
Sec. 11.1.1. Scope of Chapter and Codes .....	11 – 3	Sec. 11.5.1. Short Title.....	11 – 18
Sec. 11.1.2. Jurisdiction of Chapter and Codes.....	11 – 3	Sec. 11.5.2. Defined .....	11 – 18
Sec. 11.1.3. Technical Codes .....	11 – 3	Sec. 11.5.3. Remedy; No Action or Appeal.....	11 – 18
Sec. 11.1.4. Compliance With Codes .....	11 – 4	Sec. 11.5.4. Nuisances Declared.....	11 – 18
Sec. 11.1.5. Copies of Codes Filed With City Clerk .....	11 – 5	Sec. 11.5.5. Emergency Cases .....	11 – 18
<b>Article 11.2. Department of Inspections</b>	<b>11 – 6</b>	Sec. 11.5.6. Administrative Liability .....	11 – 18
Sec. 11.2.1. Functions and Duties .....	11 – 6	Sec. 11.5.7. Violations; Unlawful to Disregard Notices or Orders.....	11 – 18
Sec. 11.2.2. Inspection Procedure .....	11 – 6	Sec. 11.5.8. Enforcement .....	11 – 18
Sec. 11.2.3. Oversight Not to Legalize Violation .....	11 – 7	Sec. 11.5.9. Lis Pendens .....	11 – 19
Sec. 11.2.4. Administrative Liability .....	11 – 7	Sec. 11.5.10. Administrative Fee .....	11 – 19
Sec. 11.2.5. City Liability .....	11 – 7	<b>Article 11.6. Housing Code</b>	<b>11 – 20</b>
<b>Article 11.3. Examining Boards &amp; Licensing</b>	<b>11 – 8</b>	Sec. 11.6.1. Preamble; Definitions.....	11 – 20
Sec. 11.3.1. Registration of Contractors.....	11 – 8	Sec. 11.6.2. Conflict With Other Provisions.....	11 – 20
Sec. 11.3.2. Plumbing.....	11 – 8	Sec. 11.6.3. Minimum Standards for Basic Equipment and Facilities.....	11 – 20
Sec. 11.3.3. Mechanical .....	11 – 9	Sec. 11.6.4. Responsibilities of Persons .....	11 – 29
Sec. 11.3.4. Electrical .....	11 – 10	Sec. 11.6.5. Powers of Department .....	11 – 31
<b>Article 11.4. Enforcement Provisions</b>	<b>11 – 12</b>	Sec. 11.6.6. Inspections.....	11 – 31
Sec. 11.4.1. Permit Requirements.....	11 – 12	Sec. 11.6.7. Abatement; Hearing on Charges; Filing; Petition and Charges; Investigation; Time and Conduct of Hearing .....	11 – 32
Sec. 11.4.2. Application for Permit .....	11 – 12	Sec. 11.6.8. Service of Order, Contents.....	11 – 32
Sec. 11.4.3. Plans and Specifications .....	11 – 13	Sec. 11.6.9. Methods of Service .....	11 – 33
Sec. 11.4.4. Limitations on Issuance of Permits .....	11 – 13	Sec. 11.6.10. Lis Pendens .....	11 – 33
Sec. 11.4.5. Limitations on Issuance of Permits for Gasoline Pumps .....	11 – 13	Sec. 11.6.11. Housing Appeals Board; Creation, Composition, Powers and Pro- cedures.....	11 – 33
Sec. 11.4.6. Limitation on Issuance of Permits for Construction in Floodprone Areas .....	11 – 14	Sec. 11.6.12. Placarding Premises .....	11 – 34
Sec. 11.4.7. Issuance of Permit .....	11 – 15	Sec. 11.6.13. Approval by Governing Body of Removal or Demolition of Dwell- ing .....	11 – 34
Sec. 11.4.8. Permit Fees .....	11 – 15	Sec. 11.6.14. Lien On Premises for Costs; Sale of Materials, etc. ....	11 – 34
Sec. 11.4.9. Violations .....	11 – 16	Sec. 11.6.15. Alternate Remedies .....	11 – 34
Sec. 11.4.10. Civil Penalty.....	11 – 16	Sec. 11.6.16. Penalty .....	11 – 34
		Sec. 11.6.17. Administrative Fee.....	11 – 35

**Article 11.7. Manufactured Homes 11 – 36**

- Sec. 11.7.1. Inspection of Manufactured Homes Certificate Required .....11 – 36
- Sec. 11.7.2. Permit Requirements in Floodprone Areas..... 11 – 36

**Article 11.8. Demolition by Neglect of Historic Landmarks and Structures Within Historic Overlay Districts 11 – 37**

- Sec. 11.8.1. Applicability ..... 11 – 37
- Sec. 11.8.2. Petition and Action..... 11 – 37
- Sec. 11.8.3. Safeguards from Undue Economic Hardship.....11 – 38
- Sec. 11.8.4. Appeals .....11 – 41
- Sec. 11.8.5. Standards.....11 – 42

**Article 11.9. Nonresidential Building or Structure Code 11 – 43**

- Sec. 11.9.1. Title ..... 11 – 43
- Sec. 11.9.2. Purpose.....11 – 43
- Sec. 11.9.3. Definitions.....11 – 43
- Sec. 11.9.4. Applicability and Compliance .....11 – 43
- Sec. 11.9.5. Maintenance Standards for Nonresidential Buildings and Structures .....11 – 43
- Sec. 11.9.6. Duties and Powers of Code Enforcement Coordinator or Officer.... 11 – 45
- Sec. 11.9.7. Inspections .....11 – 45
- Sec. 11.9.8. Procedure for Enforcement.....11 – 45
- Sec. 11.9.9. Limitations on Orders and Ordinances—Historic Landmark or Historic District..... 11 – 47
- Sec. 11.9.10. Limitations on Orders and Ordinances—Vacant Manufacturing Facility or Vacant Industrial Warehouse ..... 11 – 47
- Sec. 11.9.11. Vacated and Closed Nonresidential Buildings or Structures 11 – 47
- Sec. 11.9.12. Methods of Service of Complaints and Orders ..... 11 – 47
- Sec. 11.9.13. In Rem Action by The Code Enforcement Coordinator or Officer .. 11 – 48
- Sec. 11.9.14. Costs, a Lien on Premises .....11 – 48
- Sec. 11.9.15. Ejectment.....11 – 48
- Sec. 11.9.16. Filing of Ordinances..... 11 – 49

- Sec. 11.9.17. Alternative Remedies..... 11 – 49
- Sec. 11.9.18. Board of Adjustment to Hear Appeals..... 11 – 49
- Sec. 11.9.19. Temporary Injunction Remedy for Aggrieved Person ..... 11 – 49
- Sec. 11.9.20. Conflict With Other Provisions..... 11 – 50
- Sec. 11.9.21. Violations; Penalty..... 11 – 50

## Article 11.1. Adoption of Codes by Reference

### Sec. 11.1.1. Scope of Chapter and Codes

The provisions of this Chapter, technical codes and of the regulatory codes adopted here shall apply to the following:

- A. The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected, attached, or used in connection with any such building or structure;
- B. The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of building sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances;
- C. The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning or refrigeration systems, fuel burning equipment, and appurtenances; and
- D. The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances.

### Sec. 11.1.2. Jurisdiction of Chapter and Codes

- A. The provisions of this chapter, technical codes and of the regulatory codes adopted here shall be in effect and apply within the corporate limits of the City and beyond and surrounding the corporate limits within a line which constitutes the boundary of the City's extraterritorial jurisdiction, as described on the map maintained in the office of the City Clerk, as the same may be amended from time to time, as provided by law.
- B. The provisions of the Fire Prevention Code as adopted in Part 5, Chapter 2, Article B, "Fire Prevention," of this UDO shall apply within the corporate limits of the City. The provisions that relate to the design, construction, reconstruction, alteration, repair, demolition or removal of buildings or structures or any appurtenances connected or attached, shall apply within the corporate limits and beyond and surrounding the corporate limits within a line which constitutes the boundary of the City's extraterritorial jurisdiction, as described on the map maintained in the office of the City Clerk, as the same may be amended from time to time, as provided by law.

### Sec. 11.1.3. Technical Codes

The term technical codes as used here shall mean the collective provisions of the North Carolina: Building, Accessibility, Plumbing, Electrical, Mechanical, Fire Prevention, Fuel Gas, Energy, Existing Buildings and Residential codes as adopted by the North Carolina Building Code Council, and the North Carolina Rehabilitation Code. The most recent edition, including all subsequent amendments, of the North Carolina Building Code, as adopted by the North Carolina Building Code Council is adopted by reference as fully as though set forth here to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in building or structures erected, enlarged, altered, repaired, or otherwise constructed or reconstructed after adoption of this chapter.

- A. In addition, Appendix D-Fire Districts, of the North Carolina Building Code is hereby adopted by reference as fully as though set forth here and shall be enforced as part of this UDO.
- B. The most recent edition, including all subsequent amendments, of Volume I-C, "Making Buildings and Facilities Accessible to and Usable by Persons with Disabilities," the Accessibility Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.
- C. The most recent edition, including all subsequent amendments, of "State of North Carolina Regulations for Manufactured/Mobile Homes" as adopted by the North Carolina Commissioner of Insurance is hereby adopted by reference as fully as though set forth here.
- D. The most recent edition, including all subsequent amendments, of North Carolina Fire Prevention Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- E. The most recent edition, including all subsequent amendments, of "Floodproofing Regulations" as prepared and published by the office of the Chief of engineers, U.S. Army, Washington, D.C. is hereby adopted by reference as fully as though set forth here to the extent said regulations are applicable for safe and stable design, methods of construction, minimum standards, and use of materials n buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed in flood hazard areas.

- F. The most recent edition, including all subsequent amendments, of the North Carolina State Building Code, Volume IX, Existing Buildings, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth here.
- G. The most recent edition, including all subsequent amendments, of North Carolina Energy Code, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth here.
- H. The most recent Edition, including all subsequent amendments, of the North Carolina Residential Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- I. The most recent edition, including all subsequent amendments, of the North Carolina Rehabilitation Code (NCRC) is hereby adopted by reference as fully as though set forth here.
- J. The most recent edition, including all subsequent amendments, of the North Carolina Plumbing Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.
- K. The most recent edition, including all subsequent amendments, of the North Carolina Mechanical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- L. The most recent edition, including all subsequent amendments, of the North Carolina Electrical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- M. The National Manufactured Home Construction and Safety Standards Act of 1974 U.S.C. §5401 et seq. and the regulations in 24 CFR Part 3280 adopted pursuant thereto, including all their subsequent amendments, are hereby adopted by reference as fully as though set forth here.
- N. The most recent edition, including all subsequent amendments, of the North Carolina Fuel Gas Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.

#### Sec. 11.1.4. Compliance With Codes

- A. All buildings or structures and connected appurtenances which are constructed, reconstructed, erected, altered, extended, enlarged, repaired, altered, occupied, used, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina Building Code, or

the North Carolina Residential Code, whichever is applicable, or both if both are applicable. Where the provisions of this UDO conflict with any of the technical codes listed above, the more restrictive provisions shall apply.

- B. Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code.
- C. All mechanical systems consisting of heating, ventilating, air conditioning or refrigeration systems, fuel-burning equipment, incinerators, and other energy-related systems, their fittings, appliances, fixtures, and appurtenances shall be installed, erected, altered, replaced, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina State Mechanical Code.
- D. All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code.
- E. All construction, alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances made or installed to any building or structure, other than one- and two-family dwellings and townhouses, shall conform to the provisions of the North Carolina Accessibility Code.
- F. The installation of gas piping systems extending from the point of delivery to the inlet connections of equipment served, and the installation and operation of residential and commercial gas appliances and related accessories shall conform to the provisions of the North Carolina Fuel Gas Code.
- G. All manufactured housing shall be constructed, repaired, altered, installed, erected, replaced, or moved to another site in conformance with the provisions of the National Manufactured Housing Construction and Safety Standards Act and the State of North Carolina procedural and reference codes for mobile homes, modular dwelling units, and other factory building structures, and all regulations adopted pursuant thereto.
- H. All construction, alterations, repairs, replacement, equipment, and maintenance hereinafter made or installed to any building or structure, other than one- and

two-family dwelling and townhouses, shall conform to the provisions of the North Carolina Fire Prevention Code.

- I. The thermal envelope of the building and installation of energy systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances, ventilation, cooling, air conditioning and refrigeration systems, incinerators, and other energy-related systems shall conform to the provisions of the North Carolina Energy Code.
- J. All alterations, repairs, replacement, rehabilitation or change of occupancy of any existing building shall conform to applicable provisions of the North Carolina Building Code Volume IX - Existing Buildings or other applicable technical codes.

### **Sec. 11.1.5. Copies of Codes Filed With City Clerk**

An official copy of each regulatory code, and technical codes adopted in this chapter, and official copies of all amendments, shall be kept on file in the office of the City Clerk. Such copies shall be the official copies of the codes and amendments.

## Article 11.2. Department of Inspections

### Sec. 11.2.1. Functions and Duties

- A. It shall be the duty of the Department of Inspections to enforce all the provisions of this Chapter; any regulatory and technical codes adopted in this Chapter; Part 12, Chapter 7. Removal and Disposal of Junked and Abandoned Motor Vehicles; Part 12, Chapter 2. Probationary Rental Occupancy Permit and Rental Dwelling Registration and PROP Notification; and Part 12, Chapter 6. Health, Sanitation and Public Nuisances; and to make all inspections necessary to determine the compliance with the provisions and to exercise all duties and powers imposed or given by applicable General Statutes or any other applicable act of the General Assembly of the State of North Carolina.
- B. All inspectors shall give such bond for the faithful performance of their duties as may be required by the Council.
- C. The administration and enforcement of this Chapter shall be the duty of the Department of Inspections unless otherwise stated, which department is hereby authorized and directed to take such lawful action as may be necessary to enforce the provisions of this UDO.
- D. The Department of Inspections, through the appointment of inspectors, shall have the full power, authority and duties prescribed by the general laws and ordinances applicable to the City to make inspections and to perform all other functions which are authorized or directed by law.
- E. Members of the Department of Inspections shall have the right to enter public or private property at such reasonable times as may be necessary for the performance of their duties. Should the owner or occupant of any property refuse to permit such reasonable access, the Department of Inspections shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2. No person shall obstruct, hamper or interfere with any such representative while in the process of carrying out his lawful duties.
- F. The City shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

### Sec. 11.2.2. Inspection Procedure

#### A. Inspections

The Department of Inspections shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with the Code of the City of Raleigh and the laws of the State of North Carolina.

1. When deemed necessary by the Department of Inspections, it may require the permit holder to have materials and assemblies inspected at the point of manufacture or fabrication, or inspections or tests to be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of such organization.
2. When deemed necessary by the Department of Inspections, it may require the permit holder to submit to the Inspections Department surveys by a registered land surveyor; the survey shall show the location of the structure including projections with reference to: property lines, flood hazard and flood-storage areas on the property, rights-of-way, easements on the property, such as greenway, drainage, utility, slope easements along rights-of-way, and when applicable by other Code requirements: minimum distances between buildings, minimum distances between buildings and parking spaces and drives, minimum distances between any outdoor living areas and parking or drives, and minimum distances of parking and drives from any public right-of-way line. No further inspections nor permits will be undertaken or issued by the City for that structure until the requested survey is submitted to and approved by the City.
3. All holders of permits, or their agents, shall notify the Department of Inspections at each stage of construction and shall give inspectors free access to the premises for the purpose of making inspections. Approval shall be obtained from the Department of Inspections before subsequent work can be continued. The inspections required shall conform to the provisions of the North Carolina Administration and Enforcement Requirements Code and technical codes.

## B. Calls for Inspection

1. When work is ready for inspection, requests for inspections shall be made to the office of the Department of Inspections. The Department of Inspections shall give priority to those requests where delays would possibly create or prolong hazardous situations or would possibly be detrimental to the work, including but not limited to foundations, poured-in-place concrete structural elements, and electrical inspections necessary before accidentally disconnected electrical installations can be reenergized. It is the intent of this section that inspections be made as soon as practicable after requests are received, with standing priority inspections, an obligation to honor the chronological order of requests received, and the necessity for scheduling an efficient route and sequence of inspections.
2. Reinspections shall be made as soon as practicable subject to the completion of inspections for which requests had theretofore been received. No work shall be inspected or approved until it is in a proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the department of inspection, at no expense to an inspector, the department of inspection, or the City, and shall be placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the department of inspection in the form of a notice posted at the site or written notice given to the permit holder or to his agent. Failure to call for inspections or proceedings without approval of each stage of construction shall be deemed a violation of this chapter.
3. The provisions of this subsection relating to requests for inspections shall apply to the administration of all of the technical codes adopted in this chapter.

### Sec. 11.2.3. Oversight Not to Legalize Violation

No oversight or dereliction of duty or issuance of a permit on the part of any inspector or other official or employee of the Department of Inspections shall be deemed to legalize or waive the violation of any provisions of the Code of the City of Raleigh or the laws of the State of North Carolina.

### Sec. 11.2.4. Administrative Liability

No officer, agent or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter.

### Sec. 11.2.5. City Liability

This chapter shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, devices, appliances, or equipment for damages to persons or property caused by any defect therein nor shall the City be held as assuming any such liability by reason of the inspection or the examination authorized herein or the certificate therefor issued as provided here, or by reason of the approval of any materials, devices, appliances or equipment authorized here.

## Article 11.3. Examining Boards & Licensing

### Sec. 11.3.1. Registration of Contractors

The registration of contractors shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code, North Carolina General Statutes, and City privilege license regulations.

### Sec. 11.3.2. Plumbing

#### A. Board Established; Personnel

There is hereby established a plumbing examining board (hereinafter referred to as the board) to consist of not less than 4 members: Two plumbing contractors and 2 journeyman plumbers. The Inspections Director shall be an ex officio member of the board. Each member of the board shall have had at least 5 years' experience in his respective field. The members of the board shall be appointed by the City Council as provided in §1-4.002 of the City Code. The board shall elect from its membership a Chairman and Vice-Chairman. The members shall serve without compensation. Present members shall continue to serve in accordance with their appointments.

#### B. Meetings of the Board

The board shall meet at such intervals as may be necessary for the proper performance of its duties, but in any case not less than twice a year. Examinations shall be held on the last Thursday in each of the following months: March, June, September and December.

#### C. Standards and Procedures for Qualifying

The board shall establish standards and procedures for the qualification, examination and licensing of journeyman plumbers, and shall issue an appropriate license with no expiration date to each person who meets the qualifications therefor and successfully passes the examination given by the board. The board shall keep an official record of all its transactions.

#### D. Examination; Certificate Required

No person shall engage in the business or trade of plumbing as a journeyman plumber in connection with public or private water supply or sewage disposal systems without submitting to an examination by and securing a certificate from

the board; provided that nothing in this Article shall be construed to prohibit the working of one or more apprentices with each journeyman plumber.

#### E. Journeyman Certificate; Suspension

Holders of journeyman plumber certificates shall be furnished by the board of examiners with evidence of their having been so certified, in card form or otherwise, which shall be carried on the person of the holder while he is engaged in plumbing work and shall be exhibited on request of the plumbing inspector or of any person on whose premises he is working. Any certificate issued by the board may, after a hearing, be suspended or revoked if the person holding such certificate willfully or by reason of incompetence repeatedly violates the provisions of this UDO.

#### F. Reexamination

Any applicant failing an examination may take a reexamination after 90 days or more shall have elapsed upon payment of the regular examination fee. After 3 successive failures, an applicant shall not be reexamined within the next following 12 months.

#### G. Temporary Journeyman Working Card

Between the regular period of required examinations given by the board, any journeyman plumber, if the Inspections Director deems it an emergency or hardship, who first presents himself to the Inspections Director and shows he is employed by a master plumber licensed by the City and can pass an examination to be administered by the Inspections Director may have a temporary journeyman plumber working permit card issued to him for that period only between the regular examinations and upon payment of a minimum charge of \$10.00. Temporary journeyman plumber cards issued shall be recalled and canceled by the Inspections Director if the holder thereof fails to conduct his work in a manner consistent with this UDO.

#### H. Examination Fee

Any person desiring to be licensed as a journeyman plumber shall make written application to the board. Examination fees for journeyman certificates shall be \$35.00, payment of such fee to accompany the application. Examination fees are not returnable. All temporary card and examination certificate fees are to be paid to the City of Raleigh; all collected fees shall be promptly remitted to the Revenue Collector.

### **Sec. 11.3.3. Mechanical**

#### **A. Board Established; Personnel**

There is hereby established a mechanical examining board (hereinafter referred to as the board) to consist of 5 members as follows: One North Carolina registered professional engineer specializing in heating, air conditioning, refrigeration and ventilation work; 3 heating, air conditioning, refrigeration and ventilation contractors; 1 journeyman certificate holder; all of whom must reside within the territorial jurisdiction of this UDO. The Inspections Director shall serve as ex officio secretary to the board. The members of the board shall be appointed by the City Council as provided in §1-4002 of the City Code. The board shall elect from its membership a Chairman and Vice-Chairman. The members shall serve without compensation.

#### **B. Purpose of the Board**

It shall be the duty of the board to examine applicants for certificates as to their knowledge of the rules and regulations governing the proper installation and operation of heating, air conditioning, refrigeration and ventilation systems and equipment as set forth in the North Carolina Mechanical Code, Volume III, and the ordinances of the City; and to determine the general qualifications and fitness of each applicant for performing the class of work covered by a journeyman's certificate.

#### **C. Meetings of the Board**

The board shall meet at such intervals as may be necessary for the proper performance of its duties, but in any case not less than twice a year. Examinations shall be held in each of the following months: March, June, September and December.

#### **D. Standards and Procedures for Qualifying**

The board shall establish standards and procedures for the qualification, examination and licensing of journeymen in the heating, air conditioning, refrigeration and ventilation fields and shall issue an appropriate license with no expiration date to each person who meets the qualifications therefor and successfully passes the examination given by the board. The board shall keep an official record of all its transactions.

#### **E. Examination; Certificate Required**

No person shall engage in the business or trade of heating, air conditioning, refrigeration and ventilation contracting as a journeyman in connection with public or private heating, air conditioning, refrigeration, or ventilation systems without submitting to an examination by and securing a certificate from the board; provided that nothing in this Article shall be construed to prohibit the working of one or more apprentices with each journeyman heating, air conditioning, refrigeration and ventilation contractor.

#### **F. Re-examination**

Any applicant failing an examination may take a re-examination after 90 days or more shall have elapsed upon payment of the regular examination fee. After 3 successive failures, an applicant shall not be reexamined within the next following 12 months.

#### **G. Examination Fee**

Any person desiring to be licensed as a journeyman shall make written application to the board. Examination fees for journeyman certificates shall be \$35.00, payment of such fee to accompany the application. Examination fees are not returnable. All temporary card and examination certificate fees are to be paid to the City of Raleigh; all collected fees shall be promptly remitted to the Revenue Collector.

#### **H. Temporary Journeyman Working Card**

Between the regular period of required examination given by the board, any journeyman heating, air conditioning, ventilation and refrigeration contractor, if the Inspections Director deems it an emergency or hardship, who first presents himself to the board secretary and shows he is employed by a master heating, air conditioning, refrigeration and ventilation contractor licensed by the City and can pass an examination to be administered by the board secretary may have a temporary journeyman working permit card issued to him for that period only between the regular examinations and upon payment of a minimum charge of \$10.00. Temporary journeyman cards issued shall be recalled and cancelled by the board secretary if the holder thereof fails to conduct his work in a manner consistent with this UDO.

### **I. Journeyman Certificate; Suspension**

Holders of journeyman heating, air conditioning, refrigeration and ventilation certificates shall be furnished by the board of examiners with evidence of their having been so certified, in card form or otherwise, which shall be carried on the person of the holder while he is engaged in heating, air conditioning, refrigeration, and ventilation work and shall be exhibited on request of the heating, air conditioning, refrigeration and ventilation inspector or any person on whose premises he is working. Any certificate issued by the board may, after a hearing, be suspended or revoked if the person holding such certificate willfully or by reason of incompetence repeatedly violates the provisions of this UDO.

## **Sec. 11.3.4. Electrical**

### **A. Board Established; Personnel**

There is hereby established an electrical examining board (hereinafter referred to as the board) to consist of a North Carolina registered professional engineer specializing in electrical work, 2 electrical contractors, 1 journeyman electrician, and 1 representative of the public electrical utility, all of whom must reside within the territorial jurisdiction of this UDO. The Inspections Director shall serve as ex officio secretary to the board. The members of the board shall be appointed for 2-year terms by the City Council as provided in §1-4002 of the City Code. The board shall elect from its membership a Chairman and Vice-Chairman. The members shall serve without compensation.

### **B. Purpose of the Board**

1. It shall be the duty of the board to examine applicants for certificates as to their knowledge of the rules and regulations for the installation and operation of electrical wiring, devices, appliances and equipment as set forth in the statutes of the State of North Carolina, the ordinances of the City, and the North Carolina Electrical Code; and to determine the general qualifications and fitness of each applicant for performing the class of work covered by a journeyman's certificate.
2. The board shall perform other duties relating to electrical wiring, contracting, electrical installations, or advise on any electrical questions referred to them by the Council.

### **C. Meetings of the Board**

The board shall meet at such intervals as may be necessary for the proper performance of its duties, but in no case less than twice each year. All meetings shall be called by the Chairman.

### **D. Standards and Procedures for Certifying Electricians**

The board shall establish standards and procedures for the qualifications, examinations and licensing of journeyman electricians, and shall issue an appropriate license with no expiration date to each person who meets the qualifications thereof and successfully passes the examination given by the board.

### **E. Examinations**

Examinations for journeyman certificates shall be by written form and a complete record of each shall be maintained by the secretary for a period of 2 years. Examinations are to be held the last Tuesday in each of the following months: March, June, September and December. A grade of 75 percent is required for passage of the examination.

### **F. Reexamination**

Any applicant failing an examination may, upon payment of the regular examination fee, be reexamined after 90 days or more shall have elapsed. After 3 successive failures, an applicant shall not be reexamined for a period of 12 months following.

### **G. Examination Fee**

Any person desiring to be licensed as a journeyman electrician shall make written application to the board and include a fee in the amount of \$35.00. Such fees shall be made payable to the City of Raleigh and are not refundable. All fees shall be collected by the secretary and promptly remitted to the Revenue Collector. The secretary shall be approved by the Revenue Collector to collect the fees for the examinations.

### **H. Temporary Journeyman Working Card**

Between the regular periods of required examinations given by the board, any journeyman electrician, if the board secretary deems it an emergency or hardship, who first presents himself to the secretary and indicates he is employed by an electrical contractor licensed by the City, may have a temporary

journeyman electrician working permit issued to him for that period before the next regular examination and upon payment of a fee of \$10.00, provided he can satisfy the secretary that he is duly qualified to perform such work. Temporary journeyman electrician working permits so issued may be canceled and recalled by the secretary if the holder thereof fails to conduct his work consistent with the applicable laws and codes. The recall of the temporary permit shall not exclude the holder from taking an examination at the regular period as required by this UDO.

#### **I. Revocation of Certificate**

Any certificate issued by the board may, after a hearing, be suspended or revoked if the person holding such certificate repeatedly violates any provision of this chapter relating to the installation, maintenance, alteration or repair of electrical wiring devices and equipment.

#### **J. Certificate Required to Perform Electrical Work**

No person shall install, alter, repair or extend any electrical system or part thereof or connect any current-consuming device, appliance or equipment (except lamps, fuse renewals and other appliances connected by means of attachment plugging devices, maintenance on small motors and on controls for heating/air conditioning equipment), on any electrical wiring used for light, heat or power within or without any building or structure whether employed by a licensed contractor or not until he shall have first passed an examination to be conducted by the City of Raleigh electrical examining board or by the electrical examining or advisory board of any City or County which is a member of the North Carolina Committee for Journeyman Electricians and until he shall have secured a certificate of competency as a certified electrician from any such examining or advisory board; provided, however, that nothing herein shall be construed as to require the Chief electrical inspector to permit any person who may have a journeyman electrician certificate of competency issued by the advisory or examining board of any City, town or County who is a member of the North Carolina Committee for Journeyman Electricians to start or remain on any job as the qualified electrician when, in the opinion of the Chief electrical inspector, by past experience said person is not qualified under local standards to do the necessary work or when by past experience it is the opinion of the Chief electrical inspector that the person will not cooperate with the Inspections Department by not calling for inspections at the proper time, or by making or supervising installations not in conformity with applicable state and local codes.

## Article 11.4. Enforcement Provisions

### Sec. 11.4.1. Permit Requirements

#### A. Building Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

#### B. Plumbing Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code and requirements of the City of Raleigh Public Utilities Handbook.

#### C. Mechanical Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

#### D. Electrical Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

#### E. Fire Protection Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

#### F. Flood Permit

1. No person within floodprone areas shall change the existing condition of any land or part thereof, or place, erect, construct, enlarge, reconstruct, move or alter any building or structure or driveway, manufactured home pad, or dike, levee, or fence wall or automobile parking area, or outdoor play equipment, or pole (lighting, etc.) or storage facility (above or below ground), or part thereof without a flood permit. Excavating, filling, drilling, dredging, grading, quarrying, paving, or improving the land is a change in the existing condition of land.
2. No permit will be issued until the applicant certifies that all necessary permits required by Federal or state law have been received; provided nothing herein shall be deemed to require a permit for agricultural land

production of plants and fibers, forestland production and harvesting, and activities undertaken by the State, railroads, and utility companies allowed in N.C.G.S. 143-215.54.

3. Three sets of detailed plans and specifications shall accompany each application for a flood permit or building permit when the fill, building or structure is located within floodprone areas, or when the estimated reasonable cost of the building or structure is in excess of \$20,000.00, or for any other building or structure when plans and specifications are deemed necessary by the Department of Inspections in order for it to determine whether the proposed work complies with the City Code and the laws of the State.
4. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed; and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter, the appropriate regulatory and technical codes, the City Code, and the laws of the State.

#### G. Stub Permit

The permit shall conform to the provisions of the City of Raleigh Public Utilities Handbook.

#### H. Zoning Permit

A zoning permit is required for all plot plans and site plans.

#### I. Permit Expiration

Any permit issued pursuant to Sec. 11.4.1., unless otherwise provided, shall expire 6 months after the day of issuance if the work authorized by the permit has not commenced. If after commencement, the work is discontinued for a period of 12 months, the permit shall, therefore, immediately expire. A permit shall not expire or be revoked because of the running of time while a vested right under Sec. 10.2.19. is outstanding. The duration of a land-disturbing activity permit shall be exempt from this section.

### Sec. 11.4.2. Application for Permit

Written application shall be made for all permits required by this Chapter and shall be made on forms provided by the City of Raleigh. Such application shall be made by the owner of the building or structure affected or by his authorized agent or

representative. The owner shall authorize any work for which a building permit is required.

### **Sec. 11.4.3. Plans and Specifications**

Where plans and specifications are required, a permittee's copy of the same marked "approved" by the Department of Inspections shall be available at the work site for all inspections requested by the permittee and shall be made available for any inspection upon request by the Department of Inspections.

### **Sec. 11.4.4. Limitations on Issuance of Permits**

No building permit shall be issued for work on any new or existing dwelling unless the plans and specifications thereof contain information sufficient to indicate that the work proposed will conform to the provisions of *Article 11.6. Housing Code*.

- A. No building permit shall be issued for new construction where City water or sewer mains are not available without written approval by the Wake County Health Department of the required water supply or waste disposal systems.
- B. No permit shall be issued to any person who has failed after notice to remedy defective work, or has failed to pay a civil penalty assessed pursuant to this UDO which is due and for which no appeal is pending, or to otherwise comply with the Code of the City of Raleigh, the regulatory codes adopted therein, or the laws of the State of North Carolina.
- C. No licensed contractor shall secure a permit from the Department of Inspections for any other person or persons not qualified in accordance with the provisions of the technical codes to do any work covered by the regulatory codes.
- D. No building or flood permit shall be issued during the pendency of an application for the revision of a floodprone area boundary of such property unless the proposed construction or filling is permitted under the existing floodprone area regulations and also under the revision proposed for the property.
- E. No permit authorized by this UDO shall be issued until the boundaries of any natural resource buffer yard, any open space area, any riparian surface water buffers, and any tree protection adjacent to or encompassing a work site are clearly and accurately demarked by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.

- F. This provision shall apply to any building permit for which a plat plan is required and to preliminary site plans not otherwise subject to the approval of the City Council. If such a building permit is requested within a planned right-of-way for public streets or utilities for which dedication or reservation is not otherwise required, or the planned site of public buildings or facilities, including but not limited to fire stations, police stations, parks and greenways, schools, utilities treatment, storage, transmission, or collection facilities, and waste disposal facilities shown on the comprehensive plan, the administrative official charged with receiving the building permit request shall forward the request to City Council in its next regularly scheduled meeting. The City Council shall decide at that meeting whether it wishes to require the reservation. If the Council does wish to require the reservation, it shall have a period of 7 months in which to acquire the reserved area by purchase or eminent domain. If the Council has not purchased the reservation interest or begun condemnation proceedings within the 7-month period, the building permit applicant may treat the land as free of the reservation and the permit shall then be issued.
- G. If the Raleigh Historic Development Commission has voted to recommend designation of an area as an Historic Overlay District, or if the Wake County Historic Preservation Commission has voted to recommend designation of a property as an historic landmark (or, to the extent that the Wake County Historic Preservation Commission does not have jurisdiction, if the Raleigh Historic Development Commission has voted to recommend designation of a property as an historic landmark), the demolition or destruction of any building, site, or structure located in the proposed district or on the property of the proposed historic landmark may be delayed by the commission with jurisdiction for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first. Should the Council approve the designation prior to the expiration of the 180-day delay period, an application for a certificate of appropriateness for demolition must then be requested.
- H. No building permit will be issued on any parcel of a parent tract when forestry has occurred on the parent tract within the last 5 years and the 32-foot and 65-foot wide perimeter buffers set forth in *Article 9.1. Tree Conservation*, were not preserved.

### **Sec. 11.4.5. Limitations on Issuance of Permits for Gasoline**

## Pumps

- A. No permit shall be issued for the construction and erection of gasoline and other fuel pumps and the islands on which they are installed unless the same are to be located a minimum of 12 feet back of the property line or of any public way except where the same are to be located within a building; provided, further, that vehicles shall not stand on any public way while being serviced.
- B. A permit may be issued to a nonconforming service station for the reconstruction or re-erection of gasoline and other fuel pumps and the islands on which they are located when the public right-of-way is at least 24 feet in excess of that portion of said public right-of-way used for vehicular or pedestrian travel on the side of said public right-of-way on which the nonconforming station is located; provided that said pumps and islands must be located wholly without the public right-of-way; provided, further, that no vehicles shall be allowed to stand on the traveled portion of any public way while being serviced, but may stand or be serviced on the 12 feet of the untraveled portion of the public right-of-way nearest the adjacent property line of the nonconforming service station whose pumps or islands are constructed as set out heretofore in this subsection. All permits which allow the reconstruction or re-erection of pumps or islands as above provided shall be issued subject to the condition that such pumps or islands shall be relocated at any time at the cost of the property owner in the discretion of the Council. No permit for the reconstruction or re-erection of the pumps or islands as herein set out shall be issued until an instrument is recorded in the office of the Register of Deeds of Wake County setting forth the conditions upon which the pumps and islands are constructed, which said instrument shall be sufficient to give notice of all conditions hereto attached to any subsequent owner.

## Sec. 11.4.6. Limitation on Issuance of Permits for Construction in Floodprone Areas

- A. No building permit shall be issued for any and all new construction or substantial improvement of residential structures located or to be located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless the lowest floor (including basement) and attendant mechanical, electrical, heating, ventilation, and air conditioning equipment, and any other service facility is elevated at least to the regulatory flood protection elevation. A registered professional engineer or architect shall certify on the building plans

that all parts of the structure below the regulatory flood protection elevation are designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the one-hundred-year flood at the location of the structure. All new construction and substantial improvements that fully enclose areas below the regulatory flood protection elevation which are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a registered professional engineer or architect. Prior to the use or occupancy of the structure, a registered land surveyor shall certify to the nearest  $\frac{1}{10}$  of 1 foot in mean sea level datum the elevation of the lowest floor.

- B. No building permit shall be issued for any and all new construction or substantial improvement of nonresidential structures or residential accessory structures located or to be located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless:
  1. The provisions of subsection A. above are met and attendant utility and sanitary facilities are floodproofed. Except in the case of accessory uses to dwellings with a cost of less than \$5,000.00, prior to the use or occupancy of a structure, a registered land surveyor shall certify to the nearest  $\frac{1}{10}$  of 1 foot in mean sea level datum the elevations of the lowest floor; or
  2. The provisions for an essentially dry floodproof class (W2) contained in "Floodproofing Regulations," most recent edition, published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., are met. Except in the case of accessory uses to dwellings with a cost of less than \$5,000.00, prior to the use or occupancy of a structure, a registered land surveyor shall certify to the nearest  $\frac{1}{10}$  of 1 foot in mean sea level datum the elevations of the lowest floor; or
  3. A registered professional engineer or architect certifies on the building plans that the walls and any parts of the structure below the regulatory flood protection elevation are substantially impermeable to the passage of water and that floodproofing methods used for a specified elevation in relation to mean sea level are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood at the location of the structure and that the structure is watertight, and attendant utility and sanitary facilities are floodproofed.

Except in the case of accessory uses to dwellings with a cost of less than \$5,000.00, prior to the use or occupancy of a structure, a registered land surveyor shall certify to the nearest  $\frac{1}{10}$  of 1 foot in mean sea level datum the elevations of the lowest floor; or

4. For nonresidential structures only, a registered professional engineer or architect certifies on the building plans that the portions of any structure below the regulatory flood protection elevation comply with alternate wet floodproofing methods that are acceptable to FEMA as variances to the essentially dry floodproofing measures required in subsection B.2. above provided said alternate methods comply with the standards set forth in the FEMA Technical Standards Bulletin 85-1, and that such measures are adequate to withstand the flood depths pressures, velocities, impact and uplift forces and other factors associated with the one-hundred-year flood at the location of the structures and that the attendant utility and sanitary facilities are floodproofed and that the requirements for the issuance of the variance comply with the provisions of §44 CFR 60.6 of the FEMA National Flood Insurance Program and related regulations.
- C. The provisions of subsections A. and B. above shall be inapplicable to the following:
1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
  2. Any reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State inventory of historic places or certified by the secretary of the interior as contributing to the historical significance of a registered historic district; provided that, the alteration will not preclude the structure's continued designation as an historic structure.
- D. No permit authorized in this chapter shall be issued for new construction or substantial improvements located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless all utility, water and sanitary facilities, mechanical, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service systems are designed, located or both to prevent water from entering or accumulating within the components during conditions of flooding.
1. All backflow preventers or devices must be installed on potable water service

lines at all building entry locations to protect the system from backflow or back siphonage of floodwaters or other contaminants; such devices shall be installed within floodproofed structures or at an elevation 1 foot above the regulatory flood protection elevation;

2. All sanitary sewer systems that have openings below the regulatory flood protection elevation shall be equipped with automatic backwater valves or other automatic backflow devices which are installed in each discharge line passing through a building exterior wall. Devices shall be installed at locations accessible for maintenance; and
3. All sewer system vents, and nonwatertight manholes, shall be constructed to a height at least 1 foot above the regulatory flood protection elevation; provided nothing herein shall prevent the construction of watertight manholes below the regulatory flood protection elevation.

### **Sec. 11.4.7. Issuance of Permit**

When proper application for a permit has been made, and the Department of Inspections has determined that the application and the proposed work comply with the provisions of the code, the appropriate regulatory and technical codes adopted herein, and the laws of the State of North Carolina, it shall issue such permit, upon receipt of the proper fees.

### **Sec. 11.4.8. Permit Fees**

#### **A. Working Without a Permit**

1. Any person who performs work without a permit when a permit is required shall be subject to an administrative fee equal to the amount of the fee specified for the work. This administrative fee shall be paid in addition to the fee specified for the work. The administrative fee shall not be construed as a penalty, but as a charge for additional administrative expense.
2. If a person performs work without a permit twice in a 12-month period, then for the second violation, that person shall pay both the administrative fee specified in *Sec. 11.4.8.A.1.* above and a civil penalty in the amount of \$100.00 per trade.
3. If a person performs work without a permit 3 or more times in a 12-month period, then for the third and for each subsequent violation, that person shall pay both the administrative fee specified in *Sec. 11.4.8.A.1.* above and a civil penalty in the amount of \$500.00 per trade.

## B. Extra Inspection

The fees in the City's adopted fee schedule entitle the permittee to the appropriate number of inspections for the work performed. For each inspection in excess of these, there shall be an additional charge.

## C. Specific Fees Enumerated

The specific fees due for any permit are listed in the City's adopted fee schedule.

## D. Voiding of Permit

1. Upon a request by a property owner, any type permit may be voided; however, refunds will be made only when the permit is valid. An administrative fee in the amount equal to a minimum fee shall be deducted from the refund payment. In the event the cost of the permit to be voided was a minimum fee or less, no refund shall be made.
2. Revisions to a construction project which require permits to be voided and reissued will be charged an administrative fee per permit when the cost of the permit is other than a minimum fee. The administrative fee charged for minimum fee permits will equal the minimum fee. Single application projects that have been reviewed and are pending pick up but are abandoned prior to permit issuance will be charged an administrative fee equal to the minimum fee for each permit approved. Projects with multiple applications will be charged an administrative fee per application. This fee will equal the cost of a minimum fee per permit.

## E. Computations

All permit fees derived in this schedule will be rounded to the nearest dollar.

## F. Re-Review Fee

When, in the processing of a permit, it becomes necessary to review the plans for a project on more than 2 occasions for items previously identified or when the plan documents are poorly conceived and prepared, a re-review fee shall be issued for each review beyond 2.

## Sec. 11.4.9. Violations

It shall be unlawful for any person to violate any provision, standard, occupancy content, or other requirement of this chapter or the regulatory and technical codes herein adopted or to refuse or fail to comply with any order of the Department

of Inspections or of any inspector made in accordance with this chapter or the regulatory codes herein adopted. Each day shall be a subsequent violation.

## Sec. 11.4.10. Civil Penalty

### A. Generally

Unless otherwise stated in this UDO, any act constituting a violation of the building code as adopted herein shall subject the offender to a civil penalty in the amount of \$50.00 to be recovered by the City in a civil action in the nature of a debt or as otherwise provided herein if the offender fails to pay the penalty within 48 hours from and after receipt of a citation of a violation.

### B. Additional Penalty

Unless otherwise stated in this UDO, a penalty of \$25.00, in addition to the 1 imposed for payment within 48 hours, shall apply in those cases in which the penalties prescribed in this section have not been paid within the prescribed 48-hour period and in which a civil action shall have been instituted.

### C. Settlement of Civil Claim

The Inspections Director is authorized to accept full payment of all monies owed in full and final settlement of the claim or claims, right or rights of action which the City may have to enforce such penalty by civil action in the nature of debt. Acceptance of any and all claims, or right of action arising out of contended violations only if the activities or non-activities which gave rise to the violations are abated or otherwise made lawful.

### D. Continuing Violations

Each day's continuing violation shall be a separate offense. No civil penalty for continuing violations shall be levied against the same person for the same continuing violation at the same location more than once unless and until the Department of Inspections shall deliver a written notice by personal service, registered mail or certified mail — return receipt requested or as otherwise permitted by law— to the property owner or other person responsible for such violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of additional civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of any appeal, if any, the corrective action has not been

completed, a civil penalty shall be assessed in the amount of \$100.00 per day of continuing violation unless otherwise stated in this UDO.

**E. Additional Civil Penalty for Occupancy Without Certificate**

Any person who occupies or allows the occupancy of a building or space without first receiving a Certificate of Occupancy or a Temporary Certificate of Occupancy shall be subject to an initial civil penalty of \$250.00 and to continuing penalties of \$100.00 for each day's violation thereafter. This penalty shall be in addition to other civil penalties or remedies available under the City Code.

## Article 11.5. Unsafe Buildings

### Sec. 11.5.1. Short Title

This Article is adopted and shall be known as the "Unsafe Building Code of the City of Raleigh."

### Sec. 11.5.2. Defined

All buildings or structures which have any or all of the following defects shall be deemed "unsafe buildings" within the definition of and in addition to G.S. 160A-426:

- A. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or damage public or private property.
- B. Those buildings which because of their condition are unsanitary or unsafe to the public.
- C. Those buildings which are especially liable to fire including, but not limited to, those which are unoccupied and are not adequately secured against entry by unauthorized persons.

### Sec. 11.5.3. Remedy; No Action or Appeal

- A. If an appeal is not taken pursuant to G.S. 160A-430 and the owner fails to comply with the orders issued pursuant to G.S. 160A-429, the Inspections Director or his designee shall report such facts and conditions of the building or structure to the Council for action at a meeting at which time the owner and other interested parties may be heard. The Council may direct by ordinance the Department of Inspections to repair or demolish the building or structure, the cost of which shall become a lien against the premises upon confirmation of the cost thereof by the City Council. The confirmation shall take place only after 10 days' written notice to the owner of the premises where the nuisance existed.
- B. The provisions herein shall be in addition to any remedy provided for in G.S. 160A-411 et seq.

### Sec. 11.5.4. Nuisances Declared

All unsafe buildings within the terms of Sec. 11.5.2. are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided in this UDO and as set forth in G.S. 160A-193.

### Sec. 11.5.5. Emergency Cases

In cases where it appears that there is an imminent danger to life or safety of any person unless an unsafe building as defined in Sec. 11.5.2. is immediately repaired, vacated, closed or demolished, the Inspections Director shall order its immediate repair, evacuation, closing or demolition as he may deem necessary, notwithstanding the other provisions of this Article. The Inspections Director may take the temporary measures necessary to safeguard persons from immediate danger of collapse of such building and is authorized to close temporarily sidewalks, streets, buildings and structures in places adjacent to such unsafe building and prohibit the same from being used, pending the removal of the danger. The cost of the emergency measures taken shall become a lien against the premises upon which the emergency condition existed upon confirmation of the cost thereof by the Council. The confirmation shall take place only after 10 days' written notice to the owner of the premises where the nuisance existed.

### Sec. 11.5.6. Administrative Liability

No officer, agent or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Article.

### Sec. 11.5.7. Violations; Unlawful to Disregard Notices or Orders

It shall be unlawful for an occupant to fail to vacate an unsafe building or structure after being given an order pursuant to G.S. 160A-429.

### Sec. 11.5.8. Enforcement

- A. If any person shall violate any provision of this chapter, he shall be guilty of a misdemeanor and shall be punished as allowed by law.
- B. Any owner of a building or structure who fails to comply with an order to repair, vacate and close or demolish any building or structure declared unsafe as determined pursuant to the provisions contained in sections in this Article, or by state law, or who permits the reoccupancy of an unsafe building once vacated shall be subject to a civil penalty of \$500.00 for the first day following the expiration of an order to repair, vacate and close or demolish any building or structure or following a determination that an unsafe building has been reoccupied in violation of this UDO. In each instance, a penalty of \$100.00 per day shall be imposed for each subsequent day that the unsafe building remains

in violation of an order issued pursuant to *Sec. 11.5.4.* and *Sec. 11.5.5.* If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

### **Sec. 11.5.9. Lis Pendens**

- A. At any time after an inspector issues a complaint containing a notice of hearing or issues an order pursuant thereto, any inspector may file a notice of *lis pendens* with the clerk of Superior Court of the county where the property is located. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the *lis pendens* . When the *lis pendens* is filed with the Clerk, it shall also be served on the owners and parties in interest in the building or dwelling, including any lienholders and tenants who may be determined by the exercise of reasonable diligence.
- B. Any inspector may cancel the *lis pendens* upon a determination by that inspector that the property is no longer unsafe and that the owner has fully complied with the inspector's order. Cancellation must be made in a writing signed by the inspector and provided to the Clerk of Court.

### **Sec. 11.5.10. Administrative Fee**

In addition to any other charge, any owner of a building located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$325.00 upon an inspection hearing disclosing the building to be unsafe due to any defects defined within *Sec. 11.5.2.* or G.S. 160A-426. In addition to any other charge, any owner of a building located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$650.00 upon any additional inspection hearing disclosing the building to be unsafe due to any defects defined within *Sec. 11.5.2.* or G.S. 160A-426 within the same 12-month period. The property owner may also be assessed any costs incurred in obtaining service including legal publication of notice of complaint charges, hearing notice and findings of fact and orders related to the building.

## Article 11.6. Housing Code

### Sec. 11.6.1. Preamble; Definitions

- A. Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the City of Raleigh and its extraterritorial jurisdiction dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the City and its extraterritorial jurisdiction.
- B. This Article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this Article.
- C. All building construction and residential properties shall comply with the North Carolina Building Code, North Carolina Residential Code and all applicable technical codes.

### Sec. 11.6.2. Conflict With Other Provisions

In any case where a provision of this Article is found to be in conflict with a provision of any zoning, building, fire, safety or health provision of this UDO or ordinances or codes of the City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

### Sec. 11.6.3. Minimum Standards for Basic Equipment and Facilities

No person shall occupy or let to another for occupancy, any dwelling unit for the purpose of human habitation which does not comply with the following minimum requirements:

#### A. Basic Equipment and Facilities

##### 1. Kitchen Sink

Every dwelling unit shall contain a kitchen sink, free from corrosion and leaks, in good working condition and properly connected to a water and

sewer system approved by the Department of Inspections. The kitchen sink shall have hot and cold running water.

##### 2. Toilet and Sink

Every dwelling unit shall contain a room separate from the habitable rooms which affords privacy with a door and operable lockable door hardware, and which is equipped with a flush toilet and a sink in good working condition and properly connected to a water and sewer system approved by the Department of Inspections. The sink shall have hot and cold running water, and be free from corrosion and leaks. Access to such room shall be through a weathertight area.

##### 3. Bathtub and Showers

Every dwelling unit shall contain a room separate from the habitable rooms which affords privacy with a door and operable lockable door hardware, and which is equipped with a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the Department of Inspections. The bathtub or shower shall have hot and cold running water, and be free from corrosion and leaks.

##### 4. Hot Water Facilities

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of hot water to be drawn at every required sink, bathtub, shower and laundry facility at a temperature between 110 and 140 degrees.

##### 5. Heating

Every dwelling unit shall have heating facilities installed and maintained according to Sec. 11.6.3.C.15.

#### B. Light and Ventilation

1. Every existing habitable room shall be provided with a window with a minimum of 6 square feet or a gravity or mechanical ventilation system capable of providing one air change every 30 minutes approved by the Department of Inspections.
2. Basements and cellars with habitable space and every sleeping room shall have at least 1 operable emergency escape and rescue window or an exterior door opening for escape and rescue.

3. Every habitable room shall have at least 1 window or skylight which can easily be opened directly to the outside, or such other device as will adequately ventilate the room. The total of operable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required in *Sec. 11.6.3.B.1.* above, except where there is supplied some other device affording adequate ventilation and approved by the Department of Inspections.
4. Every habitable room of every building shall contain at least 2 separate floor and/or wall-type electric convenience outlets and every toilet compartment, bathroom, laundry room, furnace room, entrance, exitway, and public hall shall contain at least 1 supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be connected to the source of electric power in a safe manner. The electrical service serving a dwelling unit shall be of sufficient capacity to carry the demand load as determined by the State adopted Electrical Code.
5. Every public hall and stairway in every multiple dwelling serving 5 or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than 4 dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.
6. Bathrooms, toilet compartments and similar rooms shall be provided with aggregate glazing area in windows of not less than 3 square feet, one-half of which must be operable, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet shall discharge to the outdoors and shall not be re-circulated.

### C. Sanitary Maintenance, Safety and Structural Standards

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

#### 1. Screening for Insects and Rodents

- a. For protection against mosquitoes, flies and other insects, every door opening directly from a dwelling or dwelling unit to outdoor space shall

have a screened door with a self-closing device; and every window or other device with openings to outdoor space used, designed or intended to be used for ventilation shall be likewise provided with screens. Screens shall be not less than 16 mesh per inch. Dwelling units containing central air conditioning equipment or window-type air conditioning units which will satisfactorily cool and ventilate the dwelling unit are not required to have screens in door and window openings.

- b. Every basement or cellar window used or intended to be used for ventilation and every other opening which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.
- c. Screens shall be provided for all enclosed crawl space vents.
- d. Screens shall fit openings snugly and shall not be torn or otherwise defective.
- e. Screens shall not be permanently fixed to the window frame or sash by nail, staples, screws or any other permanently fixed means. Screens shall be attached so as to be easily removed.

#### 2. Foundations

- a. A foundation wall shall support the building at all points and shall be free of holes and cracks which would admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
- b. Crawl space shall be graded so as to prevent any standing water.
- c. Footings shall be sound and have adequate bearing capacity.
- d. Piers shall be sound with no loose mortar or masonry.
- e. No pier in which the plumb line from top center falls outside the middle  $\frac{1}{3}$  of the pier base shall be allowed.
- f. No stiff knees shall be used in place of footing and pier requirements in paragraphs c. and d. above.

#### 3. Floors

- a. There shall be no decayed, insect-damaged, termite-damaged, fire-damaged, broken, overloaded or sagging girders, floor joists or sills that adversely affect the structural integrity of the building framing system.

- b. Girders, floor joists and sills shall be properly supported and reasonably level.
- c. Girders, floor joists and sills shall not be decayed, overloaded, sagging or broken so as to adversely affect the structural integrity of the floor framing system.
- d. Flooring shall be weathertight without holes or cracks which permit excessive air to penetrate rooms.
- e. Flooring shall be reasonably smooth. There shall be no decayed or fire damaged material so as to adversely affect the structural integrity of the flooring system.
- f. There shall be no loose flooring.
- g. Floors shall be reasonably level.
- h. Every toilet compartment, bathroom, kitchen and other similar floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition. The floor surfaces shall be covered with a non-absorbent material and be made watertight.

#### 4. Walls, Exterior

- a. There shall be no wall in which the plumb line from the top to the floor exceeds 3 inches out of plumb.
- b. Walls shall be structurally sound.
- c. There shall be no broken, cracked or fire damaged structural members.
- d. There shall be no decayed, insect-damaged or termite-damaged studs.
- e. All siding shall be weathertight, with no holes or excessive cracks or decayed boards which permit excessive air or moisture to penetrate rooms.
- f. There shall be no loose siding.
- g. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration. Exterior wood surfaces other than decay-resistant woods shall be protected from the elements and decay by painting or other protective covering

or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors and skylights shall be maintained weather resistant and watertight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from any exterior surfaces, except for surfaces designed to be stabilized by oxidation.

- h. Approved corrosion-resistant flashing shall be provided in the exterior wall envelope in such a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Aluminum flashing may not be used in contact with cementitious material or treated woods.
- i. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used to repair exterior walls.

#### 5. Walls, Interior

- a. The interior finish shall be free of holes and cracks which permit excessive air or moisture to penetrate rooms.
- b. No loose plaster, loose boards or other loose wall materials shall be allowed.
- c. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used on a wall to prevent air or moisture intrusion.
- d. There shall be no decayed, insect-damaged or termite-damaged studs.
- e. There shall be no broken or cracked studs or other broken or cracked structural members allowed.
- f. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used to repair interior walls.

## 6. Ceilings

- a. There shall be no joists which are decayed, broken, sagging, or improperly supported.
- b. There shall be no holes or excessive cracks which permit air or moisture to penetrate rooms.
- c. There shall be no loose plaster, boards, gypsum wall board, or other ceiling finish.
- d. Ceiling joists shall be structurally sound.
- e. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used on a ceiling to prevent air or moisture intrusion.

## 7. Roofs

- a. There shall be no rafters which are decayed, broken, or improperly supported.
- b. No rafters shall be damaged by fire.
- c. Sheathing shall not be loose and shall be structurally sound.
- d. No loose roof covering shall be allowed, nor shall there be any holes or leaks which could cause damage to the structure.
- e. There shall be proper flashing at walls and roof penetrations. The roof and flashing shall be sound, tight, and have no defects that admit rain.
- f. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.
- g. Roof water shall not be discharged in a manner that creates a public nuisance.
- h. No live or dead vegetation, tree branches or other debris that affects roof drainage or future roof degradation shall be allowed to remain on the roof structure.
- i. New roof coverings shall not be installed without first removing existing roof covering where any of the following conditions exist:

- i. The existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing;
- ii. The existing roof covering is wood shake, slate, clay tile, cement tile or asbestos-cement tile; or
- iii. The existing roof has 2 or more applications of any type of roof covering.

## 8. Exterior and Interior Windows and Doors

- a. All exterior windows and doors shall be reasonably weathertight, shall have no broken glass, and shall have adequate operable locks and hardware. Clasp locks and hasp locks are not acceptable locks and hardware.
- b. All interior doors and hardware shall be in good repair.
- c. Every window, skylight, door and frame shall be kept in sound condition and good repair. All glazing materials shall be maintained free from cracks and holes. Every window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware.
- d. Plastics (plexiglass) shall not be used as glazing unless in compliance with ASTM requirements ASTM 84, ASTM D 2843 and combustibility classifications CC1 and CC2.
- e. Covers, screens or similar devices are permitted to be placed over emergency escape and rescue openings, bulkhead enclosures, or window wells that serve such openings, provided such devices are capable of being released or removed from the inside without the use of a key, tool or force greater than that required for normal operation of the opening.
- f. Bars, grills or similar devices are not permitted to be placed over emergency escape and rescue openings, bulkhead enclosures or window wells that serve such openings.

## 9. Means of Egress

- a. There shall be a minimum of 1 exit from each dwelling unit for one or two family dwellings or townhomes, in accordance with the North Carolina State Building Code.

- b. The exit provisions shall conform to the requirements established for multi-family dwellings, excluding one or two family dwellings or townhomes, in accordance with the North Carolina Residential Building Code.
- c. Every exterior stairway, deck, porch and balcony, exits, and all attached appurtenances, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- d. Platforms, steps, and/or handrails provided to serve exits shall be structurally sound, in good repair, with proper anchorage and capable of supporting any imposed loads.
- e. There shall be a safe, continuous and unobstructed exitway from the interior of the building to the exterior at street or grade level.

#### 10. Porches and Decks

- a. Foundation, floor, ceiling and roof shall be equal to standards set forth above, except sills, girders and joists need not be level if providing drainage of floors; floors need not be weathertight; ceiling height shall be not less than 7 feet.
- b. Roof post and attached railings if provided, shall be structurally sound.
- c. Every porch, terrace or entrance platform located at least 30 inches above the adjacent finished grade shall be equipped with guardrails not less than 36 inches high. Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures that do not allow passage of an object 6 inches or more in diameter. Horizontal spacing between the vertical members in required guardrails shall be a maximum of 4 inches at the nearest point between members. Triangular openings formed by the riser, tread and bottom rail of a guard at the open side of a stairway may be of such a size that a 6-inch sphere cannot pass through.

#### 11. Stairs and Steps

- a. Stairs and steps shall not be decayed and shall be in good repair. Exterior repairs shall be made with materials for exterior use application, no interior building materials shall be allowed for exterior stairs, steps, decks, rails, treads or similar exterior appurtenances.
- b. Every rail shall be firmly fastened and maintained in good condition.

- c. No flight of stairs more than 1 inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
- d. Supports shall not sag and shall be structurally sound.
- e. Every stair tread shall be sound and securely fastened.
- f. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guardrails not less than 34 inches in height measured vertically from the nosing of the treads. Required guards on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures that do not allow passage of an object 6 inches or more in diameter. Horizontal spacing between the vertical members in required guardrails shall be a maximum of 4 inches at the nearest point between members. Triangular openings formed by the riser, tread and bottom rail of a guard at the open side of a stairway may be of such a size that a 6-inch sphere cannot pass through.

#### 12. Electrical

- a. No outlets, receptacles, luminaries, smoke detectors, carbon monoxide detectors, switches or other fixtures shall be broken or hanging loose.
- b. All outlets, receptacles, luminaries, smoke detectors, carbon monoxide detectors, switches and other fixtures shall be safely operable.
- c. Receptacle replacements for existing dwellings shall comply with the State adopted National Electrical Code.
- d. Every habitable room of every building shall contain not less than 2 separate floor or wall-type electric convenience outlets and every toilet compartment, bathroom, laundry room, furnace room, entrance, exitway, and public hall shall contain at least 1 supplied ceiling or wall-type electric light fixture as required by *Sec. 11.6.3.B.4*. Every such outlet and fixture shall be connected to the source of electric power in a safe manner.
- e. There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least 1 supplied ceiling or wall type electrical light fixture provided, further, that the ceiling light fixture may be omitted in living room and bedrooms, provided

- 3 electrical convenience receptacles are installed, one of which is controlled from a wall switch.
- f. All new wiring shall comply with manufacturer's installation requirements and the NEC requirements as approved by State of North Carolina.
  - g. Luminaries (light fixtures) shall be of such construction or installed in such a way that the conductors in outlet boxes shall not be subjected to temperatures greater than that for which the conductors are rated.
  - h. All wiring shall be safe. No circuits shall be overloaded. All circuits shall be provided with proper over-current protection; no over-current protection shall be bridged; there shall be no bare wires, open joints or open spliced cables; there shall be no open spaces in the panel box.
  - i. The electric service, including the wiring serving every dwelling, shall be of sufficient capacity to carry the demand load as determined by the current adopted electrical code.
  - j. All wiring shall be properly protected from physical damage.
  - k. All metal components of the electrical system shall be properly bonded and grounded.
  - l. Main or distribution panel boxes shall not be double lugged, shall have no open unused openings, shall utilize proper connectors, be properly labeled, utilize only approved over-current devices and be properly grounded and bonded.
  - m. Where it is found that the electrical system in a structure constitutes a hazard to the occupants of the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for other similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
  - n. All appliances shall be properly installed and function for the purpose intended
  - o. A 20-amp branch circuit and receptacle shall be provided as a laundry circuit.
  - p. Extension cords shall not be used to replace permanent wiring methods.

- q. Every occupied building shall be provided with an electrical system in compliance with the requirements of this Section.

### 13. Plumbing

- a. All plumbing fixtures and waste pipes shall be properly installed and maintained in good sanitary working order, and be kept free from obstructions, leaks and defects, and be capable of performing the function for which such plumbing fixtures are designed.
- b. Every sink, lavatory, bathtub and shower, water closet or plumbing fixture shall be properly connected to either a public water system or to an approved private water system.
- c. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture.
- d. Fixtures, including water closets, shall not be cracked, broken, leaking or loose from the floor or wall, as applicable.
- e. Tub and shower stall floors and walls shall be watertight.
- f. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from leaks and defects.
- g. There shall be adequate facilities for furnishing hot and cold water to each tub or shower, lavatory, and kitchen sink. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature between 110 and 140 degrees Fahrenheit. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. New installations shall also require a means of disconnection in accordance with the Electrical Code.
- h. There shall be installed a toilet, tub or shower, lavatory and kitchen sink for each dwelling unit.
- i. There shall be separate toilet facilities for each dwelling except as provided in *Sec. 11.6.3.D.1.* for room units or bed and breakfast inns.
- j. Toilet and bathing facilities shall be protected from the weather.

- k. All water piping shall be protected from freezing by proper installation in protected space.
- l. Sewer and water lines shall be properly supported, with no broken or leaking lines. Every plumbing stack, vent, waste and sewer line shall function properly and be kept from obstructions, leaks and defects.
- m. Every supplied facility required under this UDO shall be so constructed, installed or connected that it will function safely and effectively and shall be maintained in a satisfactory working condition. It shall be unlawful for any person to willfully or maliciously deposit any material in any toilet, bathtub or other plumbing fixture which may result in the obstruction of any sanitary sewer. Any liability on the part of the occupant shall not relieve the owner of the responsibility of cleaning any resulting blockage.

#### 14. Heating

- a. All occupied dwelling units shall have heating facilities, central or as otherwise deemed acceptable by the North Carolina Building Code.
- b. Heating facilities shall be properly installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and toilet compartments.
- c. Every occupied dwelling unit shall have a heating appliance with a minimum capacity of 12,000 BTU output so as to heat all habitable rooms to a minimum temperature of 65 degrees Fahrenheit, measured 3 feet above the floor with an outside temperature of 25 degrees Fahrenheit. As an alternative, a professional engineer or a North Carolina licensed HVAC contractor may provide calculations that the room designated can be heated accordingly by a heating unit with lesser capacity.
- d. Every bathroom or toilet compartment which does not open directly from a room having a source of heat shall be provided with a heating source deemed acceptable by this UDO, the North Carolina Building Code, the North Carolina Residential Code and as confirmed by the Inspector.
- e. All electric, gas and oil burning equipment installed on the premises shall be of a type approved by Underwriters' Laboratories, Inc., or by American Gas Association and shall be installed in accordance with the provisions of the manufacturers' recommendations or listing.

- f. Chimneys shall have no loose bricks or mortar; flues shall have no holes.
- g. Gas appliances shall not be located in, or obtain combustion air from, sleeping rooms, bathrooms, toilet rooms or storage closets. This shall not apply to:
  - i. Direct vent appliances that obtain all combustion air directly from the outdoors;
  - ii. Vented room heaters, wall furnaces, vented decorative appliances and decorative appliances for installation in vented solid fuel-burning fireplaces; provided that the room is not a confined space and the building is not of unusually tight construction;
  - iii. A single wall-mounted unvented room heater equipped with an oxygen depletion safety shutoff system and installed in a bathroom, provided that the input rating does not exceed 6,000 BTU per hour and the bathroom is not a confined space; and
  - iv. Appliances installed in a dedicated enclosure in which all combustion air is taken directly from the outdoors. Access to such enclosures shall be through a solid door that is weather-stripped and equipped with an approved self-closing device.
- h. There shall be no hanging masonry chimneys.
  - i. Thimbles shall be grouted in tight.
  - j. Thimbles shall be installed high enough for the stovepipe to rise  $\frac{1}{4}$  inch per foot minimum.
- k. Fireplaces shall be used only for supplemental heat and not for basic heating.
  - l. Hearth extension shall be at least 16 inches deep and 8 inches beyond each side of the fireplace opening.
- m. Combustible materials shall not be within 6 inches of either side of the fireplace opening or within 12 inches above the fireplace opening.
- n. If the fireplace opening is closed, the closure shall be of noncombustible material and airtight.
- o. Any stove shall be within 6 feet of the thimble serving it.
- p. No stovepipe shall be routed through combustible walls unless specifically approved for installation in combustible walls.

- q. No combustible materials shall be within 12 inches of the stovepipe.
- r. All mechanical appliances, fireplaces, solid-fuel burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- s. A supply of air for complete combustion of fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
- t. Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building and shall be equipped with a back-draft damper. Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer ducts shall not be connected to a vent connector, vent or chimney.
- u. Portable heaters are not acceptable as a permanent source of heat but they may be used as a supplementary unit in one- and two-family dwelling units. No owner shall be held to be in violation of this UDO when an occupant is using a portable heater as a source of heat as long as the owner has complied with paragraph c. above.

#### **15. Smoke and Carbon Monoxide Detectors**

- a. Every owner of a rental residential dwelling unit shall comply with G.S. 42-42 for smoke detectors and carbon monoxide detectors and shall install a smoke detector mounted on the ceiling or wall on every level, at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes and in common stairwells in each dwelling unit as provided in §5-2041 of the Raleigh City Code.
- b. Every owner of an existing residential dwelling shall comply with North Carolina Residential Code Section 313. In existing dwellings, where interior alterations, repairs, fuel-fired appliance replacements, or additions requiring a permit occurs, or where one or more sleeping rooms are added or created, carbon monoxide alarms shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms as directed by the alarm manufacturer.
- c. The owner of every residential dwelling unit where a smoke detector is installed pursuant to §5-2041 shall maintain and insure that the smoke

detector is kept in good working order at all times. If a battery-operated smoke detector is used, the batteries shall be replaced at least once per year.

#### **16. Kitchens and Bathrooms**

- a. Kitchen and bathroom counter tops and cabinets shall be constructed and maintained so as to permit the counter top and cabinets to be easily kept clean and in a sanitary condition.
- b. Counter tops and cabinets shall be made or covered by a non-absorbent material and shall be free from rot, water damaged wood, and broken or decayed materials which would affect the integrity of the counter top or cabinet.
- c. All cabinet doors and drawers shall be operable and have functional hardware to allowed proper operation.
- d. Kitchen and bathroom sinks shall be properly secured and sealed to prevent leakage.

#### **17. Temporary Interruption of Service**

No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed, shut off or disconnected from any occupied dwelling, except for such temporary interruption as may be necessary while actual repair or alterations are in process or during temporary emergencies when discontinuances of services are approved by the Department of Inspections.

#### **D. Space, Use and Location**

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

**1. Required Space in Dwelling Units**

- a. Every dwelling unit shall comply with the following Schedule of Required Minimum Habitable Room Floor Area.

**Schedule of Required Minimum Habitable Room Floor Area**

Number of Persons	Required Minimum Floor Area in Square Feet
1	150
2	260
3	370
4	480
5	590
6	700
7	780
8	850
9	950
10	1,050
11	1,560
12	1,670
13	1,780
14	1,890
15	2,000
16 and greater	an additional 150 for each additional occupant

- b. A living or principal room is required and shall contain not less than 120 square feet, and any bedroom shall contain not less than 70 square feet each. The above floor areas shall be calculated only for habitable rooms.
- c. Each habitable room shall have at least 70 square feet, with the exception of kitchens.

**2. Height of Ceiling**

At least ½ of the floor area of every habitable room shall have a ceiling height of at least 7 feet; and the floor area of that part of any room where

the ceiling height is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

**3. Access to Bath and Bedrooms**

No dwelling or dwelling unit constructed after adoption of this chapter, containing 2 or more sleeping rooms, shall have such room arrangements that access to bathroom or toilet compartment intended for use by occupant of more than 1 sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or toilet compartment.

**4. Cellars**

No cellar space shall be used as a habitable room or dwelling unit, except in compliance with the requirements of *Sec. 11.6.3.D.2.* above and all of the requirements for basements set forth in *Sec. 11.6.3.D.5.* below.

**5. Basement**

No basement space shall be used as a habitable room or dwelling unit, unless:

- a. The floor and walls are impervious to leakage of underground and surface runoff water.
- b. The total window area in each room is equivalent to the minimum window area size as identified in *Sec. 11.6.3.B.3.*
- c. Such required minimum window area is located entirely above the grade of the ground adjoining such window area.
- d. The total of operable window area in such habitable room is equivalent to at least the minimum required under *Sec. 11.6.3.B.3.*
- e. Basements with habitable space and every sleeping room shall have at least 1 operable emergency escape and rescue window or exterior door opening for emergency escape and rescue.

**6. Access Limitation of Dwelling Units to Commercial Uses**

No habitable rooms, bathroom or toilet compartment which is accessory to a dwelling unit shall open directly into or shall be used in conjunction with any room used for commercial or public purposes.

## 7. Rubbish Storage Facilities

Every dwelling, multi-family dwelling and dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Chapter 2, "Solid Waste Collection" of Part 7 of the Raleigh City Code, and the owner, operator or agent in control of such dwelling or multi-family dwelling shall be responsible for the removal of such rubbish.

## 8. Garbage Storage or Disposal Facilities

Every dwelling or multi-family dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility as required by Chapter 2, "Solid Waste Collection," Part 7 of the Raleigh City Code.

## E. Minimum Standards for Rooming Houses or Bed and Breakfast Inns

Every person who operates a rooming house or bed and breakfast inn or who occupies or lets to another for occupancy any rooming unit in any rooming house or bed and breakfast inn shall comply with all the provisions set forth within this Article, except as otherwise provided in this section.

1. At least 1 toilet, lavatory basin, and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each 3 rooms within a rooming house or bed and breakfast inn wherever the facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
2. Every toilet, lavatory basin and bathtub or shower required by paragraph 1. shall be located within the rooming house or bed and breakfast inn and within a room or rooms which afford privacy, with a door and lockable hardware, and are separate from the habitable rooms.
3. Access for every toilet, lavatory basin and bathtub or shower required by paragraph 1. shall be not more than 1 story removed from any of the persons sharing such facilities and from a common hall and without going outside the rooming house or bed and breakfast inn. Access to every toilet, lavatory basin and bathtub or shower shall comply with Sec. 11.6.3.D.3.
4. Every room occupied for sleeping purposes by 1 occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than 1 person shall contain at least 50 square feet of floor

area for each occupant thereof. Access to every sleeping room shall comply with Sec. 11.6.3.D.3.

5. The operator of every rooming house or bed and breakfast inn shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house or bed and breakfast inn; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house or bed and breakfast inn is contained is leased or occupied by the operator.
6. Every rooming house or bed and breakfast inn owner shall provide a resident management. The resident manager's name and room number shall be placed on the primary entrance of the dwelling. The resident manager shall be required to maintain an up-to-date floor plan of the rooming house or bed and breakfast inn. This floor plan shall be posted in a conspicuous location.
7. Every rooming house or bed and breakfast inn shall have a public telephone located within a central area of the dwelling.
8. Every rooming house shall have a kitchen facility in compliance with Sec. 11.6.3.C.17.
9. There shall be no living or principal room required.
10. Every rooming house operator shall conform to the license requirements set forth in §12-2156 of the Raleigh City Code.

## Sec. 11.6.4. Responsibilities of Persons

Occupants of dwellings, multi-family dwellings, and dwelling units, and owners or operators of rooming houses shall be responsible for maintenance thereof as provided in this section.

### A. Responsibilities of Occupants

#### 1. Disposal of Rubbish

Every occupant of a dwelling unit shall dispose of all rubbish in a clean and sanitary manner as required by this UDO and Chapter 2, Part 7 of the Raleigh City Code.

## 2. Disposal of Garbage

Every occupant of a dwelling unit shall dispose of garbage in a clean and sanitary manner by placing it in the garbage disposal facilities as required by Sec. 11.6.3.D. and Chapter 2, Part 7 of the Raleigh City Code.

## 3. Use and Operation of Supplied Plumbing Fixtures

Every occupant of a dwelling unit shall keep the supplied plumbing fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

## 4. Installation and Care of Plumbing Fixtures Furnished by Occupant

Every plumbing fixture furnished by the occupant of a dwelling unit shall be properly installed and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks or obstructions.

## 5. Extermination of Dwelling Units

The occupants of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination as when required by Sec. 11.6.4.B.2.d.

# B. Responsibilities of Property Owners

## 1. Exterior Property Areas

No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit for the purpose of living therein, or premises, which does not comply with the following requirements:

### a. Sanitation

All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage.

### b. Grading and Drainage

All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.

### c. Noxious Weeds

All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health.

## d. Insect and Rodent Harborage

Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises; except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of the other than a single-family dwelling, extermination shall be the responsibility of the owner.

## e. Accessory Structures

All accessory structures including detached garages shall be maintained structurally sound and in good repair.

## 2. Interior Areas

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house, rooming unit or portion thereof, for the purpose of living therein which does not comply with the following requirements:

### a. Sanitation

The interior of every dwelling and multi-family dwelling used for human habitation shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities as required under Sec. 11.6.3.E.6. and Sec. 11.6.3.E.7.

### b. Insect and Rodent Harborage

Buildings used for human habitation shall be kept free from insect and rodent infestation, and where insects or rodents are found they shall be promptly exterminated by acceptable processes which will not be injurious to human health.

### c. Extermination from Buildings

Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests whenever infestation exists in two or more of the dwelling units, or in the shared or public parts of the structure.

**d. Extermination of Dwelling Units**

The occupants of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination within the unit occupied by him whenever the occupants dwelling unit is the only unit in the building that is infested.

**e. Responsibility of Owner**

Notwithstanding the foregoing provisions, whenever infestation of rodents is caused by failure of the owner to maintain any dwelling or multi-family dwelling in a rodent-proof condition, extermination of such rodents shall be the responsibility of the owner.

**Sec. 11.6.5. Powers of Department**

- A. The Department of Inspections is hereby designated to exercise the powers.
- B. The Inspections Director is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:
  - 1. To investigate the dwelling conditions in the City in order to determine which dwellings therein are unfit for human habitation;
  - 2. To investigate the dwelling conditions in the City in order to determine which dwellings therein are unsafe;
  - 3. To administer oaths, affirmations, examine witnesses and receive evidence;
  - 4. To enter upon premises for the purpose of making examinations, provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and
  - 5. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this Article, or to impose such duties upon the regularly appointed plumbing, environmental, heating and air conditioning, and electrical inspectors, as approved by the Inspections Director.

**Sec. 11.6.6. Inspections**

- A. The inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the City and its extraterritorial jurisdiction in order that

the inspector may perform the duty of safeguarding the health and safety of the occupants of dwellings and of the general public. Should the owner or occupant of any dwelling refuse to permit the inspector reasonable access, such inspector shall proceed to obtain a search warrant pursuant to G.S. 15-27.2.

- B. It shall be unlawful for any owner or the agent of any owner to occupy, rent or offer for occupancy or rent as a dwelling any structure or part thereof, upon which an order to repair, alter or improve, or to vacate and close, or to demolish, has been issued without said owner or agent receiving the authority to do so by the Department of Inspections after confirmation of the dwelling compliance with the Housing Code. If the dwelling is vacant as a result of prior inspector orders, the owner or agent must first file application for and secure a certificate of housing code compliance from the Department of Inspections. The Department of Inspections shall issue a certificate of housing code compliance when, after examination and inspection, it is found that the structure conforms to the provisions of this chapter. No fee shall be charged for the first inspection following the expiration of an order to repair, alter or improve, or to vacate and close, or to demolish a dwelling in order to ascertain compliance with inspection orders or for one inspection request following the issuance of an order to repair, alter or improve, or one inspection due to a request for inspection in order to obtain a certificate of housing compliance. For each inspection in excess of this, there shall be a charge of \$60.00.
- C. The following conditions are necessary for the issuance of a certificate of housing code compliance:
  - 1. The owner or authorized agent of any dwelling unit vacated after an order to repair or vacate and close has been issued shall apply to the Inspections Department for a certificate of housing code compliance prior to the dwelling unit being reoccupied.
  - 2. After the repairs have been completed the property owner or agent shall make application for a certificate of housing code compliance. The Inspections Director shall cause an inspection to be made of the dwelling unit specified in the application.
  - 3. If after examination and inspection the dwelling unit is found to conform to the provisions of this Chapter 11, a certificate of housing code compliance shall be issued to the owner of the dwelling unit.
  - 4. If after examination and inspection the dwelling is not found to conform to the provisions of this Chapter 11, the owner of the dwelling unit shall be

provided a list of violations that must be corrected before a certificate of housing code compliance may be issued or the dwelling unit occupied.

5. The certificate of housing code compliance shall state:
  - a. The date of issue.
  - b. The address of the dwelling or dwelling unit.
  - c. The name of the person to whom it is issued.
  - d. The certification that the dwelling or dwelling unit complies with all applicable provisions of this Chapter 11.

### **Sec. 11.6.7. Abatement; Hearing on Charges; Filing; Petition and Charges; Investigation; Time and Conduct of Hearing**

Whenever a petition is filed with the inspector charging that any dwelling is unfit for human habitation or whenever it appears to the inspector (on his own motion) that any dwelling is unfit for human habitation, the inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties having an interest in such dwelling including lien holders and tenants, if any, as the same may be determined by reasonable diligence, a complaint setting forth the charges, The complaint shall contain a notice that a hearing will be held before the inspector (or his designated agent) at a place within the County in which the property is located therein fixed not less than 10 days nor more than 30 days after the serving of such complaint; that the owner and parties in interest shall be given a right to file an answer and to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

### **Sec. 11.6.8. Service of Order, Contents**

If after notice and hearing, the inspector determines that the dwelling is unfit for human habitation pursuant to the minimum housing code standards of *Sec. 11.6.3.*, he shall state, in writing, his findings of fact in support of such determination and shall issue and cause to be served upon the owner other parties having an interest in the dwelling, an order stating the following:

- A. If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, not to exceed 50 percent of the value, requiring the owner within the time specified, to repair, alter or improve such dwelling to render it fit for human habitation or vacate and close the dwelling as a human habitation; or

- B. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, not to exceed 50 percent of the value, requiring the owner, within the time specified in any event and not less than 90 days, to repair, alter or improve such dwelling to render it fit for human habitation, or remove or demolish such dwelling.
- C. Dwellings ordered vacated and closed shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until a Certificate of Housing Code Compliance has been issued pursuant to *Sec. 11.6.6.C.*
- D. If the owner has vacated and closed a dwelling pursuant to an order issued by the inspector as provided in *Sec. 11.6.8.A.*, or if a dwelling is vacated and closed by the owner by the order of an ordinance adopted by Council and remains vacated and closed for a period of 1 year pursuant to the order or ordinance; and if the Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State; then in such circumstances, after the expiration of such 1-year period, the Council may enact an ordinance and serve such ordinance upon the owner, requiring that the owner either:
  1. Repair or demolish and remove the dwelling within 90 days, if the repair necessary to render the dwelling fit for human habitation would cost less than 50 percent of the present value of the dwelling; or
  2. Demolish and remove the dwelling within 90 days if the repair necessary to render the dwelling fit for human habitation would cost in excess of 50 percent of the present value of the dwelling.

Such order shall be recorded in the Register of Deeds of Wake County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this order within the time fixed by such order, then the Inspections Director shall cause such dwelling to be repaired or demolished

and removed pursuant to said order. The cost of such repairs, alterations, improvements, or demolition and removal shall be a lien on the property as prescribed in Sec. 11.6.14.

- E. Whenever a determination is made pursuant to this Article that a dwelling must be vacated and closed, or removed, or demolished, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request with the Department of Inspections for such notices. No removal or demolition by action of the public officer shall occur until a minimum of 45 days has elapsed from the mailing of such notice.

### Sec. 11.6.9. Methods of Service

- A. Complaints or orders issued by an inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- B. If the identities of any owners or whereabouts of persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, the inspector shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order upon such owners or persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time at which personal service would be required under Sec. 11.6.7. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

### Sec. 11.6.10. Lis Pendens

- A. After an inspector issues a complaint containing a notice of hearing or issues an order pursuant thereto, any inspector shall file a notice of *lis pendens* with the Clerk of Superior Court of the county where the property is located. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the *lis pendens*. When the *lis pendens* is filed with the Clerk, it shall also be served on the owners and parties in interest in the building or dwelling,

including any lienholders and tenants who may be determined by the exercise of reasonable diligence.

- B. Any inspector may cancel the *lis pendens* upon a determination by that inspector that the property fully complies with the Minimum Housing Code, and Article 11.6 of this UDO. Cancellation of the *lis pendens* must be made in a writing signed by the inspector and filed with the Clerk of Court.

### Sec. 11.6.11. Housing Appeals Board; Creation, Composition, Powers and Procedures

- A. There is hereby created and designated an agency which shall be known as the "Housing Appeals Board of the City of Raleigh," "City of Raleigh Housing Appeals Board," or "Housing Appeals Board."
- B. The Housing Appeals Board shall consist of 5 members who shall be residents of the City of Raleigh. They shall be appointed by the Mayor and City Council as provided in §1-4002 of the Raleigh City Code. In addition, there shall be 2 alternate members appointed to the board by the Mayor and City Council.
- C. Provided, if the Council should decide to exercise extraterritorial jurisdiction for the purpose of enforcing minimum housing standards, the Housing Appeals Board shall continue to consist of 5 members. Four of the members shall reside within the corporate limits of the City, and shall be appointed by the Mayor and Council as provided in §1-4002 of the Raleigh City Code.
- D. If the Council should decide to exercise such additional jurisdiction, 1 of the members and an alternate member shall reside outside the corporate limits of the City but within the limits of its extraterritorial jurisdiction. They shall be appointed by the Chairman and members of the board of commissioners of Wake County subject to the provisions of §1-4002 of the Raleigh City Code.
- E. The Housing Appeals Board may exercise any and all powers prescribed by G.S. 160A-446, state law and by special acts not in conflict therewith and shall perform duties directed by the Council which are consistent with said laws.
- F. The Housing Appeals Board may adopt its own rules of procedure. Such rules shall be consistent with the laws of North Carolina and the ordinances and policies of the City of Raleigh.
- G. The Housing Appeals Board is made available to any party that wishes to appeal having been charged with Minimum Housing violations. The Housing Appeals Board is given the responsibility of resolving whether those Minimum Housing

violations found against a property by an inspector with the Department of Inspections are warranted.

- H. Anyone that wishes to appeal their Minimum Housing case to the Housing Appeals Board must submit their formal appeal in writing to the Inspections Department no later than 10 days from the date of the orders for correction. The appeal must specify the grounds upon which the appeal is based.

### **Sec. 11.6.12. Placarding Premises**

If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Inspections Director may cause such dwelling to be repaired, altered or improved or to be vacated and closed; the Inspections Director may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

The removal of such placard when posted pursuant hereto shall be unlawful.

### **Sec. 11.6.13. Approval by Governing Body of Removal or Demolition of Dwelling**

If the owner fails to comply with an order to remove or demolish a dwelling, the Inspections Director may cause such dwelling to be removed or demolished. Provided that placarding of the premises as set forth in *Sec. 11.6.12.* shall not be exercised until the Council shall have by ordinance found the property to be unfit for human habitation and which property or properties were so found described in the ordinance. Such ordinance shall be recorded in Register of Deeds of Wake County and shall be indexed in the name of the property owner in the grantor index.

### **Sec. 11.6.14. Lien On Premises for Costs; Sale of Materials, etc.**

- A. The amount of the cost of repairs, alterations or improvements to the property; vacating and closing of the property; or removal or demolition of the property by the City of Raleigh shall be a lien against the real property upon which such costs were incurred.
- B. Any lien filed pursuant to this section shall have the same priority and be collected as set forth in G.S. 160A-216 et seq.
- C. If the dwelling is removed or demolished by the City of Raleigh, the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling shall be sold and the proceeds of the sale shall be

credited against the cost of the removal or demolition. Any balance remaining after the sale shall be deposited with the Superior Court and shall be secured in such manner as may be directed by the court and shall be disbursed by the court to the persons found to be entitled to the proceeds thereof as established by order or decree of the court.

- D. Nothing in this chapter shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by any method authorized by this UDO, the Code or the laws of the State of North Carolina.

### **Sec. 11.6.15. Alternate Remedies**

If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this chapter or of any ordinance or code adopted or any valid order or decision of the Inspections Director or board made pursuant to any ordinance or code adopted, the Inspections Director or board may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate such violation, to prevent the occupancy of the dwelling, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

### **Sec. 11.6.16. Penalty**

- A. It shall be unlawful for the owner to occupy or to permit the occupancy by others or for anyone to occupy a dwelling which has been posted with the notices authorized by *Sec. 11.6.12.* after the time prescribed in the notice for the vacation of said dwelling. Each day's occupancy after said date shall be a separate and distinct offense.
- B. If any person shall violate any provision of this chapter, he shall be guilty of a misdemeanor and shall be punished as provided by law.
- C. Any owner of a dwelling who fails to comply with an order to repair, vacate and close or demolish any dwelling determined to be unfit for human habitation pursuant to the provisions contained in *Sec. 11.6.7.* and *Sec. 11.6.8.*, or who permits the reoccupancy of an unfit dwelling in violation of *Sec. 11.6.6.* shall be subject to a civil penalty of \$500.00 for the first day following the expiration of an order to repair, vacate and close or demolish any dwelling or following a determination that an unfit dwelling has been reoccupied in violation of *Sec. 11.6.6.B.* In each instance, a penalty of \$100.00 per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of an order issued

pursuant to *Sec. 11.6.7.* and *Sec. 11.6.8.* or in violation of *Sec. 11.6.6.B.* If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

- D. Any owner of a dwelling whose property shall be subject to an order to repair, vacate and close, or demolish said dwelling or who permits the reoccupancy of an unfit dwelling as provided in subsection (c) shall on the second offense occurring within 1 year be subject to an additional civil penalty of \$1,000.00 for the first day following the expiration of the order to repair, vacate and close or demolish said dwelling or the unlawful re-occupancy of the unfit dwelling. In each instance, a penalty of \$250.00 per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of the order or remains unlawfully occupied. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.
- E. Any owner of a dwelling who fails to comply with an order to repair, vacate and close or demolish any dwelling determined unfit for human habitation pursuant to the provisions contained in *Sec. 11.6.12.* and *Sec. 11.6.13.* shall be subject to an additional civil penalty of \$1,000.00 for the first day following the effective date of a City Council Ordinance declaring said dwelling to be unfit for human habitation or ordering it to be repaired or demolished. In each instance, a penalty of \$250.00 per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of the Ordinance or remains unlawfully occupied. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

standards *Sec. 11.6.3.* within the same 12-month period. The property owner may also be assessed any costs incurred in obtaining service including legal publication of notice of complaint charges, hearing notice and findings of fact and orders related to the dwelling.

### **Sec. 11.6.17. Administrative Fee**

In addition to any other charge, any owner of a dwelling, dwelling unit or rooming unit located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$325.00 upon an inspection hearing disclosing violations of minimum housing code standards *Sec. 11.6.3.* In addition to any other charge, any owner of a dwelling, dwelling unit or rooming unit located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$650.00 upon any additional inspection hearing disclosing violations of minimum housing code

## Article 11.7. Manufactured Homes

### Sec. 11.7.1. Inspection of Manufactured Homes Certificate Required

- A. All manufactured homes manufactured after September 1, 1971, shall bear permanently attached thereto a label attesting to compliance with the provisions of G.S. 143-149.
- B. The Department of Inspections shall inspect each manufactured home to determine whether the manufactured home complies with this section. Such inspection shall be as follows:

#### 1. Manufactured Home

The inspector shall inspect each manufactured home for physical damage and determine that conditions of health and sanitation are met. Each manufactured home shall comply with Title 11, Chapter 8, §.0900, et seq. of the North Carolina Administrative Code.

#### 2. Electrical

Upon receipt of a certificate signed by a licensed electrician representing a licensed electrical contractor, certifying that the electrical system is properly grounded and free of short circuits, the inspector shall verify that the matters stated in the certificate are true.

#### 3. Plumbing

The inspector shall inspect the plumbing of each manufactured home to assure that the plumbing is in a satisfactory working condition. As permitted by visual inspection, without the removal of walls, flooring, ceiling, or roofing, the inspector shall be satisfied that all plumbing fixtures are trapped and vented.

- C. The certificate required by subsection B.2., above shall contain the license number of the electrical contractor and shall be deemed to be in compliance with said requirement if said certificate, upon identifying the manufactured home, contains language substantially as follows:

"This is to certify that the described unit has been properly grounded and is free of short circuits. The circuitry has been rung out with a meggar and it has been found to ring clear."

- D. All manufactured homes shall be erected or placed on a foundation as indicated in the publication "State of North Carolina, Procedures and References Codes for Mobile Homes, Modular Dwelling Units and other Factory Built Structures" as published by the North Carolina Department of Insurance. All manufactured homes shall be connected to the appropriate utilities as approved by the City of Raleigh.

### Sec. 11.7.2. Permit Requirements in Floodprone Areas

No building permits shall be issued for the placement, replacement, or substantial improvement, as defined in Part 12 of this UDO, of manufactured homes, foundations, stands, or pads which are located or to be located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless:

- A. The provisions of *Sec. 11.4.6.* are met;
- B. Load-bearing foundation supports such as piers or pilings when used must be placed on stable soil or concrete footings no more than 10 feet apart, and when foundation supports are more than 6 feet above ground level, the support must contain steel reinforcement; and
- C. Over-the-top and frame ties to ground anchors resist flotation, collapse, or lateral movement. Specifically:
  - 1. Over-the-top ties are provided at each of the 4 corners of the manufactured home, with 2 additional ties per side at intermediate locations; and 1 additional tie per side for manufactured homes less than 50 feet long;
  - 2. Frame ties are provided at each corner of the manufactured home with 5 additional ties per side at intermediate locations, and 4 additional ties per side for manufactured homes less than 50 feet long; and
  - 3. All components of the anchoring system are capable of carrying a force of 4,800 pounds.

## Article 11.8. Demolition by Neglect of Historic Landmarks and Structures Within Historic Overlay Districts

### Sec. 11.8.1. Applicability

- A. The purpose of this section is to prevent the gradual deterioration of historic resources due to a failure to provide normal and customary maintenance such that the unique attributes and character of the resource or historic district might be lost due to decay, deterioration or structural defects.
- B. The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as a Historic Landmark or found to be a contributing resource to the Historic Overlay District shall be preserved by the property owner against decay and deterioration and kept free from structural defects. For purposes of this section, the term "property owner" shall include such other person who may have interest, legal possession, custody, and/or control of the property
- C. Only Historic Landmarks and contributing resources to Historic Overlay Districts shall be governed by this section.
- D. Only the Raleigh Historic Development Commission may file a petition alleging Demolition by Neglect to a contributing Historic Resource.
- E. Petitions alleging Demolition by Neglect shall be filed and considered in accordance with the provisions of this Article.
- F. Nothing contained within this Article shall diminish the City's power to declare an unsafe building or a violation of the minimum housing code.

### Sec. 11.8.2. Petition and Action

#### A. Filing of Petition

1. Petitions charging that a structure is undergoing demolition by neglect shall be filed with the Planning and Development Officer.
2. The Historic Development Commission may file a petition on its own initiative.
3. Any official, commission, or department of the City of Raleigh, any state

agency, or any local or state historical, preservation, neighborhood, or business association may request in writing to the Historic Development Commission that it make a preliminary investigation of a structure to determine whether a basis exists for a determination of demolition by neglect.

4. The Historic Development Commission shall complete an investigation and notify the requestor in writing within 60 days the results of its preliminary investigation. The commission is under no obligation to file a petition on any structure. Should the commission determine that a petition is warranted, the commission shall prepare and file such petition within 90 days of its notification to the requestor.
5. Petitions shall be filed in a format determined by the Historic Development Commission to clearly describe and illustrate the specific defects citing in each instance the specific standard or standards (as outlined in Sec. 11.8.5.) being violated.
6. A petition alleging demolition by neglect may not be filed for the same property more frequently than once every 2 years.

#### B. Methods of Service

1. Complaints, notices, or orders issued by the Director shall be served upon property owners either personally or by registered or certified mail.
2. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Director in the exercise of reasonable diligence, and the Director shall make an affidavit to that effect stating the steps taken to determine and locate the property owners, then the serving of such complaint, notice, or order may be made by publishing the same once each week for 2 successive weeks in a newspaper generally circulated within the City. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

#### C. Hearing on Petition

1. Whenever a petition is filed with the Planning and Development Officer charging that a structure is undergoing demolition by neglect, the Director shall make a preliminary investigation of the charges within 21 days of the filing of the petition.

2. If after preliminary investigation the Director determines that the charges in the aggregate do not rise to the applicability of *Sec. 11.8.1.A.* and *Sec. 11.8.1.B.*, the Director shall provide written notification to the Historic Development Commission outlining in general terms the reasons for not applying the provisions of this section. The petition shall be returned to the Historic Development Commission.
3. If the investigation discloses a basis for such charges, within 14 additional days the Director shall issue and cause to be served upon the property owners, as may be determined by reasonable diligence, a complaint stating the charges in that respect, including a copy of the petition and this section of the UDO. The complaint shall contain a notice that a hearing will be held before the Director at a place fixed not less than 30 nor more than 45 days after the serving of such complaint; that the property owners shall be given a right to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. The Historic Development Commission shall also be given notice of the hearing.
4. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the property owner wishes to make a claim of undue economic hardship.

#### D. Action on Petition

1. If after notice and hearing the Director determines that the structure is not undergoing demolition by neglect according to the applicability of *Sec. 11.8.1.A.* and *Sec. 11.8.1.B.* as judged by the standards of *Sec. 11.8.5.*, the Director shall within 30 days of the hearing state in writing the findings of fact for not applying the provisions of this section. The written findings and conclusion shall be sent to the property owners and the Historic Development Commission. The petition shall be returned to the Historic Development Commission.
2. If after notice and hearing the Director determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is contributing to deterioration, according to the applicability of *Sec. 11.8.1.A.* and *Sec. 11.8.1.B.* as judged by the standards of *Sec. 11.8.5.*, the Director shall within 30 days of the hearing state in writing the findings of fact in support of such determination and shall issue and cause to be

served upon the property owners an order to repair within a reasonable time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. A copy of the order shall also be sent to the Historic Development Commission.

3. In the event that the property owners wish to make a claim of undue economic hardship, the Director's order shall be stayed until after the Hardship Review Panel's determination in accordance with the procedures of *Sec. 11.8.3.*, except as provided in *Sec. 11.8.4.B.*

### Sec. 11.8.3. Safeguards from Undue Economic Hardship

#### A. Claim of Undue Economic Hardship

1. When the property owners believe that they will be unable to obtain a reasonable return on or a reasonable beneficial use from the property owing to the effects of this section, written notice of intent to file a claim of Undue Economic Hardship must be sent to the Planning and Development Officer postmarked within 10 days following the hearing on the petition, unless oral notice of intent is made to the Planning and Development Officer during the hearing. The Planning and Development Officer shall notify the Historic Development Commission within 3 days following receipt of a written notice of intent.
2. The Economic Documentation outlined in *Sec. 11.8.3.C.* shall be provided by the claimant to the Planning and Development Officer within 45 days following the hearing on the petition for transmittal to the Hardship Review Panel.
3. Under this section, the claimant for economic hardship and the Planning and Development Officer, the Historic Development Commission, the Hardship Review Panel, and any interested party shall consult in good faith in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts shall be documented by the claimant and presented at the hearings described in *Sec. 11.8.3.B.*

#### B. Hardship Review Panel

1. A Hardship Review Panel shall be established to analyze documentation submitted in support of claims of undue economic hardship. The panel shall prepare a report of its determination whether the evidence supports a conclusion that the property owners will be unable to obtain a reasonable

return on or a reasonable beneficial use from the property owing to the effects of this section. If in the panel's opinion a hardship exists, the report may also offer recommendations for relief of the economic hardship.

2. The Planning and Development Officer shall coordinate the selection of an ad hoc review panel. The panel shall be comprised of real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation.
3. The panel shall consist of 3 persons. Two of the persons shall be selected within 30 days of the hearing on the petition – one by the Historic Development Commission and one by the claimant. The third person shall be selected by the first 2 appointees. The City and the claimant shall bear the cost of their respective selectees and shall split the cost of the third person. If the first 2 appointees cannot agree on a third person within 45 days of the date of the hearing on the petition, the third appointee shall be selected by the Planning and Development Officer within 5 days after the expiration of the 45-day period. Members of the review panel may not be:
  - a. A person with financial interest in the property;
  - b. An employee of or paid consultant to the claimant, the City, or the Historic Development Commission; or
  - c. A person that has generated or been involved with any of the economic documentation outlined in *Sec. 11.8.3.C*.
4. The Planning and Development Officer shall provide the Hardship Review Panel with the Economic Documentation provided by the claimant within 5 days of the panel's formation or when the documentation is received, whichever occurs later.
5. Within 90 days of the hearing on the petition for Demolition by Neglect, the Hardship Review Panel shall review the Economic Documentation, hold a hardship hearing, and forward its findings and determination to the Planning and Development Officer.
  - a. The Planning and Development Officer shall provide notice that a hardship hearing will be held before the panel at a place fixed not less than 30 nor more than 45 days after the panel is formed; that the property owners shall be given a right to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in

courts of law or equity shall not be controlling in hearings before the Hardship Review Panel. The Historic Development Commission shall also be given notice of the hearing.

- b. The panel shall hold its initial meeting to review the claimant's submitted Economic Documentation within 10 days of when the panel is formed. The panel may at any time request any additional information as set forth in *Sec. 11.8.3.C*.
  - c. The purpose of the hardship hearing is to review the claimant's submitted Economic Documentation, receive additional evidence concerning the claim of undue economic hardship, and to ascertain whether additional economic documentation is required.
  - d. Following the Hardship Review Panel's hearing on the claim, the panel shall consider all information received and cause to be made a determination of undue or no undue economic hardship. The panel shall prepare a written report of its determination that shall include findings of fact for such determination.
  - e. If in the panel's opinion a hardship exists, the panel's report shall establish a monetary value of capital expenditure on the property that the panel believes would yield a return on the investment without economic hardship. If the panel believes the property cannot support any capital expenditure, it shall so state. The panel may also offer recommendations for relief of the economic hardship.
6. The determination of the Hardship Review Panel shall be final, subject to appeal as noted in *Sec. 11.8.4.B*.

### **C. Economic Documentation**

1. When a claim of undue economic hardship is made owing to the effects of this Article, the property owners must provide evidence describing the circumstances of hardship. The minimum evidence provided by the property owners shall include for all property:
  - a. The property owner's knowledge of the landmark or historic overlay designation at the time of acquisition, or whether the property was designated subsequent to acquisition;

- b. Form of ownership or operation of the property (sole proprietorship, for-profit corporation or non-profit corporation, limited partnership, joint venture, etc.) or legal possession, custody, and control;
  - c. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance, and any terms of financing between buyer and seller;
  - d. The annual gross and net income, if any, from the property for the previous 3 years;
  - e. Itemized operating and maintenance expenses for the previous 3 years, including proof that adequate and competent management procedures were followed;
  - f. Past capital expenditures during ownership of current owner;
  - g. Depreciation deduction and annual cash flow before and after debt service, if any, for the previous 3 years;
  - h. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous 3 years;
  - i. Real estate taxes for the previous 3 years and assessed value of the property according to the 2 most recent Wake County assessed valuations;
  - j. All appraisals obtained within the previous 3 years by the owner or applicant in connection with the purchase, financing or ownership of the property;
  - k. Any state or federal income tax returns on or relating to the property for the previous 3 years.
  - l. Any listing of the property for sale or lease within the previous 3 years, price asked and any offers received, the name of the any real estate broker or firm engaged to sell or lease the property, and any advertisements placed for the sale or rent of the property.
  - m. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
  - n. An estimate of the cost of the required construction, alteration, repair, demolition, or removal required by the order;
  - o. The estimated market value of the property in its current condition and such value after completion of the required construction, alteration, repair, or removals;
  - p. A report from an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
  - q. An analysis of common costs expended in both rehabilitation and comparable new construction immaterial to which type of project is undertaken.
  - r. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
2. The review panel may receive and consider studies and economic analyses from other city agencies and from private organizations relating to the property in question.
  3. The review panel may require that the property owners furnish such additional information that is relevant to its determination of undue economic hardship. The review panel may request the Planning and Development Officer to furnish additional information as it believes is relevant. The review panel shall also state which forms of financial proof it deems relevant and necessary to a particular case.
  4. In the event that any of the required information is not reasonably available to the property owners or the City and cannot be obtained by the owner or the City, the owner or City shall describe the reasons why such information cannot be obtained.

#### **D. Action on Hardship Review Panel's Determination**

1. The Planning and Development Officer shall provide a copy of the Hardship Panel's report to the property owner and to the Historic Development Commission.
2. In the event of a determination of no undue economic hardship, the Planning and Development Officer shall cause to be re-issued the stayed order for such property to be repaired within the time specified.

3. In the event of a determination that undue economic hardship would result from an order to repair, the Historic Development Commission shall within 60 days of its receipt of the report prepare a Plan for Relief of Economic Hardship.
4. Should the Historic Development Commission fail to act within 60 days of its receipt of the report, the Planning and Development Officer shall rescind the order for repair and return the petition to the Historic Development Commission.

#### **E. Plan for Relief of Economic Hardship**

1. In the event of a determination of undue economic hardship, the Historic Development Commission shall develop a plan to relieve the economic hardship. This plan may include, but is not limited to,
  - a. Capital expenditure by the property owner,
  - b. Property tax relief as may be allowed under North Carolina law,
  - c. Loans or grants from the City, the County, or other public, private, or nonprofit sources,
  - d. Acquisition by purchase or eminent domain,
  - e. Building code modifications,
  - f. Changes in applicable zoning regulations, or
  - g. Relaxation of the provisions of this section sufficient to mitigate the undue economic hardship.
2. The Commission shall give precedence to recommendations for relief of hardship contained in the report of the Hardship Review Panel, if any; the plan should include the Commission's rationale for not incorporating any Panel recommendations into the Commission's plan. The plan should also include a statement documenting good faith consultation as outlined in *Sec. 11.8.3.A.3.*
3. The Commission's plan shall utilize the Hardship Review Panel's estimation of monetary value of capital expenditure outlined in *Sec. 11.8.3.B.5.e.* (if any) as a budget figure to recommend prioritized repairs that shall to the greatest extent possible stabilize the effects of deterioration upon the property.
4. The Commission shall report its plan to the Planning and Development Officer. The Planning and Development Officer shall provide notice that a

hearing will be held before the Director at a place fixed not less than 10 nor more than 25 days after the report is received; that the property owners, the Historic Development Commission, and the Hardship Review Panel shall be given a right to give testimony; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. The Historic Development Commission and Hardship Review Panel shall also be given notice of the hearing.

5. Following the hearing, Planning and Development Officer shall either approve the Plan or refer it to the Historic Development Commission for amendment. Referrals for amendment shall specify items to be amended. The amended report shall be returned to the Planning and Development Officer by the Historic Development Commission within 15 days. Upon receipt of the approved or amended Plan, the Planning and Development Officer shall cause to be re-issued the stayed order for such property to be repaired within the time specified, and according to the provisions of the approved plan.

#### **Sec. 11.8.4. Appeals**

##### **A. Determination of Demolition by Neglect**

Determinations made by the Planning and Development Officer may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within 10 days following receipt of the order for repair of the property. Appeals shall be in the nature of certiorari.

##### **B. Determination of Undue Economic Hardship**

Determinations made by the Hardship Review Panel and the Plan for Relief of Economic Hardship prepared by the Historic Development Commission may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within 10 days following receipt of the determination or the order for repair of the property. Appeals shall be in the nature of certiorari.

## Sec. 11.8.5. Standards

### A. Determination of Demolition by Neglect

The property owners shall, upon written request by the City, repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to any of the following defects:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
3. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
4. Deterioration or crumbling of exterior plasters or mortars.
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
6. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
7. Rotting, holes, and other forms of decay.
8. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
9. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
10. Deterioration of fences, gates, and accessory structures.
11. Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the Historic Landmark.
12. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

### B. Determination of Undue Economic Hardship

1. The determination of undue economic hardship is based solely on the characteristics of the property, independent of the owner or ownership.

2. When a claim of undue economic hardship is made, the burden of proof is upon the owner and/or parties in interest to demonstrate that:
  - a. The hardship is not of their own making; and
  - b. The property is incapable of providing a reasonable return on investment, regardless of whether that return represents the most profitable return possible, or the property is incapable of providing a reasonably beneficial use; and
  - c. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return or beneficial use; and
  - d. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

## Article 11.9. Nonresidential Building or Structure Code

### Sec. 11.9.1. Title

This Article shall be known and may be cited and referred to as the "Nonresidential Building or Structure Code".

### Sec. 11.9.2. Purpose

In order to protect the health, safety and welfare of the City and its citizens, it is the purpose of this Article to establish minimum standards of maintenance, sanitation, and safety relating to nonresidential buildings or structures, as expressly authorized by North Carolina General Statute §160A-439. This Article provides for the repair, closing or demolition of nonresidential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.

### Sec. 11.9.3. Definitions

The following definitions shall apply in the interpretation and enforcement of this Article:

- A. "Basic structural elements" means the parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.
- B. "Nonresidential" means any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.
- C. "Operator" shall mean any person who has charge, care, or control of a nonresidential building or structure, or part thereof.
- D. "Parties in interest" means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

- E. "Vacant manufacturing facility" means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least 1 year and has not been converted to another use.
- F. "Vacant industrial warehouse" means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least 1 year and has not been converted to another use.

### Sec. 11.9.4. Applicability and Compliance

- A. This Article establishes minimum standards for all nonresidential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or structure, equipment or facilities.
- B. The provisions of this Article shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the City. Every nonresidential building or structure, and the premises on which it is situated, shall comply with the provisions of this Article, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this Article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities.

### Sec. 11.9.5. Maintenance Standards for Nonresidential Buildings and Structures

All nonresidential buildings and structures shall be free of all conditions that are dangerous and injurious to the public health, safety, and welfare of occupants or members of the general public. The existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public necessity exists for the repair, closing, or demolition of such building or structure and must be corrected in accordance with the provisions of this Article:

- A. Interior walls, vertical studs, partitions, supporting members, sills, joists, rafters, or other basic structural members that list, lean, or buckle to such an extent as to render the building unsafe, that are rotted, deteriorated or damaged, and that have holes or cracks which might admit rodents.
- B. Exterior walls that are not structurally sound or free from defects and damages or capable of bearing imposed loads safely. Where a wall of a building has

- become exposed as a result of demolition of adjacent buildings, such wall must have all doors, windows, vents, or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed, or bricked and sufficiently weatherproofed to prevent deterioration of the wall.
- C. Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building.
  - D. Damage by fire, wind, or other causes rendering the building unsafe.
  - E. Dilapidation, decay, unsanitary conditions, or disrepair, dangerous to the health and safety of the occupants or members of the general public.
  - F. Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or members of the general public.
  - G. Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner.
  - H. Buildings and structures that have loose and insufficiently anchored overhanging objects, posing a danger to persons or property.
  - I. Buildings and structures including their environs that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other dangerous impediments on or around walks, driveways, parking lots, alleyways, or other areas accessible to and generally used by persons on or around the premises.
  - J. Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and shall be repaired or replaced with like or similar material according to its original use.
  - K. Buildings and structures that have objects or elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, brackets, and similar objects.
  - L. Chimneys, flues, and vent attachments thereto which are not structurally sound. Chimneys, flues, gas vents, or other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.
  - M. Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair, and free of defects.
  - N. Cornices which are not structurally sound or are rotten or weakened. Any rotten or weakened areas shall be repaired and/or replaced. All exposed wood shall be treated or painted.
  - O. Improperly attached gutters or down-spouts located so as to cause a hazard to pedestrian or vehicular traffic, or adjacent property.
  - P. Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments or structures that cause a safety hazard to the occupants or members of the general public.
  - Q. All exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces shall be painted or sealed to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where 50% or more of the aggregate of any painted surface shall have peeling or flaking or previous paint worn away, the entire surface shall be repainted in order to prevent further deterioration.
  - R. Windows containing broken glass or cracked glass that could be in danger of falling or shattering. All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions.
  - S. All openings originally designed as windows, doors, loading docks, or other means of egress or ingress which have been temporarily closed by boarding or other manner in a non-secure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building and

the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals, or birds.

- T. Any other condition which, by the determination of the code enforcement coordinator or officer renders any building or structure dangerous or injurious to the health, safety, or general welfare of the occupants or members of the general public.

### **Sec. 11.9.6. Duties and Powers of Code Enforcement Coordinator or Officer**

- A. The code enforcement coordinator or officer is hereby designated as the public officer to enforce the provisions of this Article and to exercise the duties and powers herein prescribed. It shall be the duty of the code enforcement coordinator or officer:
1. To investigate the conditions of nonresidential buildings and structures in the City and to inspect nonresidential buildings and structures located in the City in order to determine which nonresidential buildings and structures are not being maintained so that the health and safety of its occupants or members of the general public are jeopardized and for the purpose of carrying out the objectives of this Article with respect to such nonresidential buildings and structures;
  2. To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect the repair or demolition of nonresidential buildings and structures which have not been properly maintained in compliance with minimum standards established by this Article;
  3. To keep a record of the results of inspections made under this Article and an inventory of those non-residential buildings and structures which have not been properly maintained in compliance with the minimum standards established by this Article; and
  4. To perform such other duties as may be herein prescribed.
- B. The code enforcement coordinator or officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:
1. To investigate nonresidential buildings and structures in the City to

determine whether they have been properly maintained in compliance with the minimum standards established by this Article so that the safety or health of the occupants or members of the general public are not jeopardized;

2. To administer oaths and affirmations, examine witnesses and receive evidence;
3. To enter upon premises for the purpose of making examinations and inspections in accordance with law; and
4. To appoint and fix duties of such officers, agents, and employees as the code enforcement coordinator or officer deems necessary to carry out the purposes of this Article.

### **Sec. 11.9.7. Inspections**

For the purpose of making inspections, the code enforcement coordinator or officer is hereby authorized to enter, examine, and survey at all reasonable times, nonresidential buildings and structures. If entry upon the premises for purposes of investigation is necessary, such entry shall be made with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises, or if permission is not granted, pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2.

### **Sec. 11.9.8. Procedure for Enforcement**

#### **A. Preliminary Investigation**

Whenever it appears to the code enforcement coordinator or officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this Article, the code enforcement coordinator or officer shall undertake a preliminary investigation, including, but not limited to, an inspection of the premises and discussion with any witnesses.

#### **B. Complaint and Hearing**

If the preliminary investigation discloses evidence of a violation of the minimum standards established by this Article, the code enforcement coordinator or officer shall issue and serve a complaint upon the owner of and any parties in interest, as may be established by reasonable due diligence, of the

nonresidential building or structure. The complaint shall set forth and describe the violation and contain a notice stating that a hearing will be held before the code enforcement coordinator or officer at a place and time set forth in the notice; that the hearing shall be held not less than 10 days nor more than 30 days after service of the complaint; that the owner and any parties in interest shall be given the right to answer the complaint and to appear in person and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not control in hearings before the code enforcement coordinator or officer.

### C. Procedure after Hearing

1. If, after notice and hearing, the code enforcement coordinator or officer determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this Article, the code enforcement coordinator or officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.
2. If, after notice and hearing, the code enforcement coordinator or officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this Article, the code enforcement coordinator or officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of paragraphs 3. and 4. below and subject to the limitations set forth in *Chapter 6. Use Regulations* of this UDO.
3. If the code enforcement coordinator or officer determines that the cost of repair, alteration, or improvement of the building or structure would not exceed 50 percent of its then current value, then the code enforcement coordinator or officer shall state in writing the findings of fact in support of such determination and issue an order that the owner, within a time specified in the order, either (i) repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this Article or (ii) vacate and close the nonresidential building or structure for any use.

4. If the code enforcement coordinator or officer determines that the cost of repair, alteration, or improvement of the building or structure would exceed 50 percent of its then current value, then the code enforcement coordinator or officer shall state in writing the findings of fact in support of such determination and issue an order that the owner, within a time specified in the order, either (i) remove or demolish the nonresidential building or structure or (ii) repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this Article.

### D. Failure to Comply with Order and Ordinances

1. If the owner fails to comply with an order to either (i) repair, alter, or improve the nonresidential building or structure or (ii) vacate and close the nonresidential building or structure, the code enforcement coordinator or officer shall submit to the City Council an ordinance ordering the code enforcement coordinator or officer to cause such nonresidential building or structure to be repaired, altered, or improved in order to bring it into compliance with the minimum standards established by this Article or to be vacated and closed for any use. The property shall be described in the ordinance. If City Council adopts the ordinance, the code enforcement coordinator or officer shall cause the building or structure to be vacated and closed for any use.
2. If the owner fails to comply with an order to either (i) remove or demolish the nonresidential building or structure or (ii) repair, alter, or improve the nonresidential building or structure, the code enforcement coordinator or officer shall submit to the City Council an ordinance ordering the code enforcement coordinator or officer to cause such nonresidential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the City Council. The property shall be described in the ordinance. If City Council adopts the ordinance, the code enforcement coordinator or officer shall cause the building or structure to be removed or demolished.

### **Sec. 11.9.9. Limitations on Orders and Ordinances—Historic Landmark or Historic District**

Notwithstanding any other provision of this Article, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City Council determines, after a public hearing, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order issued by the code enforcement coordinator or officer pursuant to *Sec. 11.9.11.* and the ordinance approved by City Council may only require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this Article.

### **Sec. 11.9.10. Limitations on Orders and Ordinances—Vacant Manufacturing Facility or Vacant Industrial Warehouse**

Notwithstanding any other provision of this Article, an order issued by the code enforcement coordinator or officer pursuant to *Sec. 11.9.11.* and the ordinance approved by City Council may not require repairs, alterations, or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and/or ordinance may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

### **Sec. 11.9.11. Vacated and Closed Nonresidential Buildings or Structures**

A. If the City Council has adopted an ordinance or the code enforcement coordinator or officer has issued an order requiring the building or structure to be repaired, altered, or improved or vacated and closed and the building or structure has been vacated and closed for a period of 2 years pursuant to the ordinance or order, then if the City Council finds that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the City in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or

would cause or contribute to blight and the deterioration of property values in the area, then City Council may, after the expiration of the 2-year period, adopt an ordinance and serve such ordinance on the owner, setting forth the following:

1. The ordinance shall require that the owner either (i) demolish and remove the nonresidential building or structure within 90 days or (ii) repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this Article within 90 days.
  2. The ordinance shall require that if the owner does not either (i) demolish and remove the nonresidential building or structure within 90 days or (ii) repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this Article within 90 days, then the code enforcement coordinator or officer shall demolish and remove the nonresidential building or structure.
- B. In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of 5 years before City Council may take action under this section.
- C. If the owner fails to comply with the requirements of the ordinance within 90 days, the code enforcement coordinator or officer shall demolish and remove the nonresidential building or structure.

### **Sec. 11.9.12. Methods of Service of Complaints and Orders**

- A. Complaints or orders issued by the code enforcement coordinator or officer under this Article shall be served upon persons by personal service or by registered or certified mail, in conjunction with first class mail. When the manner or service is by first class mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the first class mail is not returned by the post office within 10 days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by first class mail shall certify that fact and the date thereof, and such certificate shall be conclusive in the absence of fraud. If first class mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the subject property.
- B. If the identities of any owner or the whereabouts of parties in interest are unknown and cannot be ascertained by the code enforcement coordinator or officer in the exercise of reasonable diligence, and the code enforcement

coordinator or officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owner or other parties in interest may be made by publication in a newspaper having general circulation in the City at least once no later than the time by which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the subject.

### **Sec. 11.9.13. In Rem Action by The Code Enforcement Coordinator or Officer**

After failure of an owner of a nonresidential building or structure to comply with an order of the code enforcement coordinator or officer issued pursuant to the provisions of this Article and upon adoption by the City Council of an ordinance authorizing and directing the owner to do so, as provided by G.S. 160A-439(f), the code enforcement coordinator or officer shall proceed to cause the nonresidential building or structure to be repaired, altered, or improved to comply with the minimum standards established by this Article, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the City Council. The code enforcement coordinator or officer shall post on the main entrance of any nonresidential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

### **Sec. 11.9.14. Costs, a Lien on Premises**

A. As provided by G.S. 160A-439(i), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the code enforcement coordinator or officer shall be a lien against the real property upon which such costs were incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the North Carolina General Statutes. The amount of the costs shall also be a lien on any other real property of the owner located within the City limits except for the owner's primary residence. The additional lien on other real property of the owner, excluding the subject property, as provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

B. If the nonresidential building or structure is removed or demolished by the code enforcement coordinator or officer, the code enforcement coordinator or officer shall offer for sale any recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited in the Superior Court by the code enforcement coordinator or officer, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

### **Sec. 11.9.15. Ejectment**

If any occupant fails to comply with an order to vacate a nonresidential building or structure, a civil action may be filed in the name of the City to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as the defendant any person occupying the nonresidential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the code enforcement coordinator or officer produces a certified copy of an ordinance adopted by the City Council pursuant to G.S. 160A-439(f) and this UDO to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the City Council has ordered the code enforcement coordinator

or officer to proceed to exercise his duties under G.S. 160A-439(f) and this UDO to vacate and close or remove and demolish the nonresidential building or structure.

### **Sec. 11.9.16. Filing of Ordinances**

An ordinance adopted by City Council pursuant to this Article shall be recorded in the office of the Register of Deeds of Wake County and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-439(f) and (g).

### **Sec. 11.9.17. Alternative Remedies**

Neither this Article nor any of its provisions shall be construed to impair or limit in any way the power of the City of Raleigh to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this Article by criminal process as authorized by G.S. 14-4, and this Article, and the enforcement of any remedy provided herein or in other ordinances or laws.

### **Sec. 11.9.18. Board of Adjustment to Hear Appeals**

- A. All appeals which may be taken from decisions or orders of the code enforcement coordinator or officer pursuant to this Article shall be heard and determined by the Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties.
- B. Appeals shall be subject to the following:
  - 1. An appeal from any decision or order of the code enforcement coordinator or officer may be taken by any aggrieved party. Any appeal from the code enforcement coordinator or officer shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the code enforcement coordinator or officer, and the Board of Adjustment, a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the code enforcement coordinator or officer shall transmit to the Board all the papers constituting the record upon which the appealed decision was made. When the appeal is from a decision of the code enforcement coordinator or officer refusing to allow the aggrieved party to act, the code enforcement coordinator or officer's decision shall remain in force until modified or reversed. When the appeal is from a decision of the code enforcement coordinator or officer requiring the aggrieved party to act, the appeal shall

have the effect of suspending the requirement until the hearing of the appeal by the Board; however, should the code enforcement coordinator or officer certify to the Board, after the notice of appeal is filed, that by reason of the facts stated in the certification, a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order. The restraining order may be granted for due cause shown upon not less than 1 day's written notice to the code enforcement coordinator or officer, by the Board or by a court of general jurisdiction upon petition made pursuant to G.S. 160A-446(f) and this UDO.

- 2. The Board shall fix a reasonable time for the hearing of all appeals, shall give notice to all parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed or order, and may make such decision and order as ought to be made in the matter, and to that end it shall have all the powers of the code enforcement coordinator or officer. The concurring vote of  $\frac{4}{5}$  of the members of the Board shall be necessary to reverse or modify any decision or order of the code enforcement coordinator or officer. In any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Article, the Board may adapt the application of the Article to the necessities of the case to the end that the spirit of the Article shall be observed, public safety and welfare secured, and substantial justice done.
- 3. Every decision of the board shall be subject to review by the Superior Court by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board.

### **Sec. 11.9.19. Temporary Injunction Remedy for Aggrieved Person**

Any party aggrieved by an order issued by the code enforcement coordinator or officer or a decision rendered by the board of adjustment shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction pending a final disposition of the cause, as provided by G.S. 160A-446(f).

### **Sec. 11.9.20. Conflict With Other Provisions**

In the event any provision standard, or requirement of this Article is found to be in conflict with any other ordinance or code of the City, the provisions which establishes the higher standard or more stringent requirement for the promotion and protection of health and safety of the citizens of the City shall prevail.

### **Sec. 11.9.21. Violations; Penalty**

- A. It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the code enforcement coordinator or officer duly made and served in accordance with the provisions of this Article, within the time specified in the order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, improvement, or its vacation and closing. Each day that such occupancy continues shall constitute a separate and distinct offense.
- B. The violation of any provision of this Article shall constitute a misdemeanor, as provided by G.S. 14-4.
- C. In addition to or in lieu of the other remedies provided by this Article, any owner of a nonresidential building or structure that fails to comply with an order of the code enforcement coordinator or officer within the time specified therein, shall be subject to a civil penalty in the amount of \$50.00 for the first offense, \$100.00 for the second offense in the calendar year, and \$250.00 for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of \$250.00. Each 30-day period, or part thereof, in which a violation continues will constitute a separate and distinct offense.

# CHAPTER 12. DEFINITIONS

**Article 12.1. General 12 – 2**

Sec. 12.1.1. General Meaning of Words and Terms..... 12 – 2

Sec. 12.1.2. Graphics, Illustrations, Photographs & Flowcharts..... 12 – 2

Sec. 12.1.3. Abbreviations ..... 12 – 2

**Article 12.2. Defined Terms 12 – 3**

a..... 12 – 3

b..... 12 – 4

c..... 12 – 4

d..... 12 – 5

e..... 12 – 6

f..... 12 – 6

g..... 12 – 9

h..... 12 – 9

i.....12 – 10

l..... 12 – 11

m..... 12 – 11

n..... 12 – 13

o..... 12 – 13

p.....12 – 14

q..... 12 – 15

r..... 12 – 15

s.....12 – 16

t.....12 – 18

u..... 12 – 19

v..... 12 – 19

w..... 12 – 20

## Article 12.1. General

### Sec. 12.1.1. General Meaning of Words and Terms

- A. All words and terms used have their commonly accepted and ordinary meaning unless they are specifically defined in this UDO or the context in which they are used clearly indicates to the contrary.
- B. In the absence of court decisions or Board of Adjustment decisions specifically interpreting a provision in question, specific definitions listed in this UDO or previous interpretations of a provision by the Planning and Development Officer, the meaning of provisions shall be based on the following general hierarchy of sources:
  - 1. For a legal term, definitions in a legal dictionary or if not a legal term, definitions in an ordinary dictionary;
  - 2. Statements of the purpose and intent of particular sections or background reports and studies adopted or referred to in this UDO, although such documents cannot overrule a specific code provision;
  - 3. Minutes of discussions of legislative or advisory bodies considering adoption of the provision in question;
  - 4. Definitions of similar terms contained in Federal and State statutes and regulations; and
  - 5. Ordinary rules of grammar.
- C. When vagueness or ambiguity is found to exist as to the meaning of any word or term used, any appropriate canon, maxim, principle or other technical rule of interpretations or construction used by the courts of this State may be employed to resolve vagueness and ambiguity in language.

### Sec. 12.1.2. Graphics, Illustrations, Photographs & Flowcharts

The graphics, illustrations, photographs and flowcharts used to explain visually certain provisions of this UDO are for illustrative purposes only. Where there is a conflict between a graphic, illustration, photograph or flowchart and the text of this UDO, the text of this UDO controls.

### Sec. 12.1.3. Abbreviations

- A. BFE: Base Flood Elevation
- B. DBH: Diameter at Breast Height
- C. FAA: Federal Aviation Administration
- D. FC: Footcandle
- E. FEMA: Federal Emergency Management Agency
- F. FIRM: Flood Insurance Rate Map

## Article 12.2. Defined Terms

### a

---

#### **Accessory Structure or Use**

Any structure or use subordinate in both purpose and size that is incidental to and customarily associated with any principal structure or principal use that is located on the same lot.

#### **Accelerated Erosion**

Any increase over the rate of natural erosion which results from land-disturbing activities.

#### **Active Tree Preservation**

Arboricultural practices designed to ensure survival of existing trees by the protection of critical root zones from tree disturbing activities and the application of one or more arboricultural maintenance procedures, including but not limited to: watering, fertilizing, pruning of trees, pruning of roots and aeration.

#### **Addition (to an existing building)**

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is "new construction."

#### **Adequate Erosion Control Measure**

Any structure, device or measure which controls accelerated erosion, retains stormwater and prevents off-site sedimentation.

#### **Adult Cabaret**

Any place which features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainers.

#### **Adult Establishment**

Adult cabarets, adult media centers, sadomasochism centers and any place contained in N.C. Gen. Stat. §14-202-10(b), excluding masseurs.

#### **Adult Media Center**

Any place:

1. Which receives a majority of its gross income during any calendar month from the sale, rental or both of books, periodicals, magazines, videotapes, CD-ROM, computer software, movies and other products offered in photographic, print, electronic, magnetic or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas" as defined in N.C. Gen. Stat. §14-202.10(10) or "specified sexual activities" as defined in N.C. Gen. Stat. §14-202.10(11); or "sexually oriented devices" as defined in N.C. Gen. Stat. §14-202.10(9) or any combination thereof; or
2. Having as a preponderance of its books, periodicals, magazines, videotapes, CD-ROM, computer software, movies and other products offered in photographic, print, electronic, magnetic or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas" as defined in N.C. Gen. Stat. §14-202.10(10) or "specified sexual activities" as defined in N.C. Gen. Stat. §14-202.10(11); or "sexually oriented devices" as defined in G.S. 14-202.10(9) or any combination thereof.

#### **Affected Area**

An area which will potentially suffer special damages, distinct from the rest of the community, by the determination of a quasi-judicial body. The boundaries of an affected area will vary depending on the particular subject matter to be decided by the quasi-judicial body.

#### **Affordable Housing**

Housing that is affordable to and occupied by families with an annual household income of no greater than 60% of area median income, adjusted for household size, according to the then-current income limits established by the United States Department of Housing and Urban Development in accordance with Section 3 of the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) or any successor legislation. An affordable rental housing development has a minimum of 10% affordable rental housing units and has a compliance period of at least 30 years.

#### **Agricultural Produce**

Fresh farm or garden-produced crops and goods, the majority of which were grown and harvested in North Carolina including, but not limited to, fruits, vegetables, eggs, nuts, honey and fresh-cut flowers.

## b

---

**Banner**

Any sign, except an awning sign, made of flexible, fabric-like material.

**Basal Area**

The total cross sectional area, stated in square feet per acre, of trees in a wooded area measured at 4½ feet above ground level.

**Base Flood Elevation (BFE)**

A determination of the water surface elevations of the base flood based on current conditions hydrology or future conditions hydrology as published in the flood insurance study. When the BFE has not been provided in a flood hazard area, it may be obtained from engineering studies available from a Federal or State other source using FEMA approved engineering methodologies. This elevation, when combined with 2 additional vertical feet establishes the regulatory flood protection elevation in flood hazard areas.

**Base Flood**

The flood having a 1% chance of being equaled or exceeded in any given year.

**Basement**

Any area of a building having its floor subgrade (below grade level) on all sides.

**Being Conducted**

A land-disturbing activity has been initiated, but permanent stabilization of the site has not been completed.

**Block**

An area of land enclosed by streets and occupied by or intended for buildings.

**Building Facade**

The face of a building that delineates the edge of conditioned floor space.

## C

---

**Caliper**

The diameter of nursery-grown trees measured at a point on the tree 6 inches above soil line for trees up to 4 inches caliper or measured at a point on the tree 12 inches above soil line for trees greater than 4 inches caliper. Caliper is the measurement used to specify sizes of new or replacement trees planted to meet the requirements of this UDO.

**Casualty**

Damage or destruction which is caused by the exercise of the power of eminent domain; man-made acts such as riot, fire, accident, explosion; or flood, lightning, wind or other calamity or act of nature.

**Champion Tree**

Any tree listed as the champion or co-champion of its species, either on the "National Big Tree" list as compiled by the American Forestry Association or on the "Champion Big Trees of North Carolina" list as compiled by the North Carolina Division of Forest Resources or on the "Capital Trees Program" list as compiled by Wake County Keep America Beautiful.

**Charitable Institution**

Establishments that are primarily engaged in administration of programs of financial assistance, training, counseling and other services to individuals or organizations, but not providing housing or shelter.

**Closed Fence or Wall**

A fence or wall which has no openings and contains shiplap or tongue and groove or similar overlapping design if made of wood.

**Civic Club**

A not for profit club for civic, social or fraternal purposes operated by a civic, social or fraternal organization, including offices for local, State and regional officials, not including a political party club.

**Completion of Construction or Development**

No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

**Comprehensive Plan**

Refers to the 2030 Comprehensive Plan (latest addition) for the City of Raleigh.

**Conservation Development**

A conservation development trades smaller lot sizes (with smaller setbacks) and additional density in exchange for protecting a significant amount of open space.

**Construction Permit**

A zoning permit, grading permit, right-of-way permit, driveway permit, tree conservation area permit or utility plan permit.

**Construction Sign**

Any temporary sign erected during construction which may indicate the project name and the names of architects, contractors, subcontractors, developers, rental agencies, financial institutions or other principals involved in the sponsorship, design and construction of a structure or project.

**Convention Center, Arena**

A place of assembly that charges for meeting or exhibition areas and such areas either contain North Carolina Building Code occupancy limits of more than 800 people or have meeting and exhibition areas that total more than 12,000 square feet.

**Copy**

The wording or pictorial graphics on a sign surface either in permanent or removable form.

**Copy (Area of)**

The square or rectangular area which fully encloses the extreme limits of the message, copy, announcement or decoration on a sign.

**Corner Lot**

A lot of that has least 2 intersecting sides that abut for their full length a street.

**Courtyard**

An open space, either landscaped, hardscaped or both surrounded by structure(s). Vehicular surface area and parking are not permitted within a courtyard.

**Critical Root Zone**

The area uniformly encompassed by a circle with a radius equal to 1¼ feet per inch of DBH tree trunk of the preserved tree measured at 4½ feet above the ground (measured to the nearest inch), with the trunk of the tree at the center of the circle. The minimum radius shall not be less than 7 feet.

**Current Conditions Hydrology**

The flood discharges associated with the land-use conditions existing within the drainage area of a watercourse at the time a flood study of the watercourse was conducted. Current conditions flood discharges and historical flood study information are published in the flood insurance study.

**Cutoff Fixture**

An outdoor light fixture shielded or constructed in such a manner that no more than 2½ % of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

## d

---

**Decorative Fence**

An open or solid fence or wall that matches or complements the adjacent primary structure on the site. This shall not include a fence that is required to satisfy any provision of this UDO, any retaining wall, any security fence such as chainlink and shall not be available for purchase in stores.

**Developer**

A site planner or subdivider.

**Development**

Any site plan or subdivision.

**Development-related Improvements**

Includes streetscape, sidewalk, street, storm drainage, bicycle infrastructure, greenways, transit facilities, utilities, pavement, curb and gutter, turning lanes, acceleration lanes and deceleration lanes.

**Diameter at Breast Height (DBH)**

The diameter of the trunk of a single-trunk tree measured at 4½ feet (breast height) above grade level or the total diameter of all stems of a multi-trunk tree measured at 4½ feet above grade.

**Discharge Point**

That point at which runoff leaves a tract of land.

**Display Area**

An outdoor open air area where merchandise is stored throughout the day and night and this same stored merchandise is sold or leased, not including the display area for any motor vehicle, trailer or semi-trailer (see vehicular display area).

**Drainage Basin Study Maps**

Flood hazard boundary maps adopted by the City. Floodplain areas and the base flood elevations shown on drainage basin study maps are based on future conditions hydrology.

**Dwelling Unit**

A building or portion of a building providing complete and permanent living facilities, including cooking and bathing facilities.

---

## e

**Elevated Building**

An above-ground building built to have the top of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water; and adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. Elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

**Energy Dissipator**

An adequate erosion control measure placed at the outlets of storm drainage facilities or at other points as specified by this chapter to receive and breakdown the energy from high velocity flow.

**Ephemeral (Stormwater) Stream**

A feature that carries only stormwater in direct response to precipitation with waters flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

**Erosion**

The wearing away of the land surface by the action of wind, water, gravity or any combination thereof.

**Exterior Features**

Important landscape and natural features, significant archaeological features, architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size, color and scale of the building and the type, color, style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor signs, exterior features shall be construed to mean style, material, size, color and location of all such signs.

---

## f

**Face of Sign (Sign Face)**

The entire surface area of a sign upon, against or through which copy is placed.

**Flashing Sign**

Any sign which contains an intermittent, blinking, scintillating or flashing light source or which includes the illusion of intermittent or flashing light or an externally mounted intermittent light source.

**Flood or Flooding**

The general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland water.

**Flood Hazard Boundary Map**

The official map of the City on which appears a description of the boundaries of flood -plain, -prone and/or -hazard areas, including representations of the floodway, floodway fringe, future conditions flood hazard areas. The map is applicable to the community within the corporate limits and within the extraterritorial jurisdiction of the City. The flood hazard boundary map(s) consist of flood insurance rate maps and drainage basin study maps, flood hazard soils plus additional distances required in this UDO and recorded flood storage areas required by this UDO. The floodway areas, floodway fringe areas and future conditions flood hazard areas shown and illustrated on floodway hazard boundary maps are hereby adopted as official flood hazard boundary maps and floodway maps for the City and extraterritorial jurisdiction of the City. These maps and other data are hereby incorporated herein by reference and duly made a part of this chapter. The most recent maps and data officially approved by the City Council are identified in the evidence of the Council's action and are kept on file in the Inspections Department for public inspection.

**Flood Hazard Soils**

Those types of soils in the relatively flat areas associated with natural watercourses which are subject to periodic flooding. The types of soils and their corresponding symbols are as follows:

Name	Map Symbol
Altavista fine sandy loam, 0% to 4% slopes	AfA
Augusta fine sandy loam	Au
Buncombe soils	Bu
Chewacla soils	Cm
Congaree fine sandy loam	Co
Congaree silt loam	Cp
Mantachie soils	Me
Roanoke fine sandy loam	Ro
Wahee fine sandy loam	Wh
Wehadkee silt loam	Wn
Wehadkee and Bibb soils	Wo

**Flood Insurance Rate Map (FIRM)**

An official map of the city on which appears a description of the boundaries of floodplain, floodprone and flood hazard areas, including representations of the floodway, floodway fringe, future conditions flood hazard areas and a delineation of the risk premium zones applicable to the community within the corporate limits and within the extraterritorial jurisdiction of the City. The flood insurance study, Wake County, Federal Emergency Management Agency, latest publication, consisting of (i) flood insurance rate maps and (ii) other pertinent data furnished by the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers, to the City, showing and illustrating floodway areas, floodway fringe areas and future conditions flood hazard areas are hereby adopted as official flood hazard boundary maps and floodway maps for the City and extraterritorial jurisdiction of the City. These maps and other data are hereby incorporated herein by reference and duly made a part of this UDO. The most recent maps and data officially approved by the City Council are identified in the evidence of the City Council's action and are kept on file in Planning and Development for public inspection.

**Flood Insurance Study**

An examination, evaluation and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRM).

**Flood Lamp**

A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

**Flood Light**

A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

**Floodplain, Floodprone or Flood Hazard Area**

The maximum area, adjoining a river, stream, watercourse or lake which is likely to be flooded, by the base flood or the future conditions flood. The flood -plain, -prone and/or -hazard area includes "floodway" areas, "floodway fringe" areas and future conditions flood hazard areas. These areas are illustrated on flood hazard boundary maps, flood hazard soils plus additional distances, recorded flood storage areas required by this UDO and drainage basin study maps.

**Floodproofing**

Any combination of structural and nonstructural features, additions, changes or adjustments to properties and structures in accordance with or comparable to guidelines set forth in “Floodproofing Regulations” June 1972 edition, published by the Office of the Chief Engineers U.S. Army, Washington, D.C. for an essentially dry floodproof class (W2).

**Floodway**

That portion of channels of streams and areas of land adjacent thereto within the City and its extraterritorial jurisdiction necessary to carry and discharge the waters of the base flood without increasing the water surface elevation of that flood more than 1 foot at any point, and those areas illustrated on the maps referred to in the definition of *flood hazard boundary map*, and those areas adjoining watercourses draining 1 square mile or more of watershed which lie within the outermost boundaries of either the flood hazard soils or the made land which traverse such soils lying along said watercourses, and those areas required by this UDO to be delineated as flood storage areas or are delineated as a floodprone areas on the drainage basin study maps.

**Floodway Fringe**

That portion of the flood -plain, -prone and/or -hazard area outside the floodway and illustrated on the map referred to in the definition of flood hazard boundary map above. The floodway fringe for watercourses not defined on maps referred to in the definition of flood hazard boundary map above are herein defined for those areas adjoining watercourses draining less than 1 square mile of watershed as the flood hazard soils plus 2 additional vertical feet from the outermost boundaries of either said soils or the made land which traverse such soils lying along said watercourses and the floodway fringe for those areas adjoining watercourses 1 square mile or more is defined as lands which lie 5 vertical feet from the outermost boundaries of either the flood hazard soils or the made land which traverse such soils lying along the watercourse.

**Footcandle (FC)**

A quantitative unit measuring the amount of light cast onto a given point, measured as 1 lumen per square foot.

**Forestry, General**

A woodland area where all of the following occur:

1. The growing of trees;
2. The harvesting of timber, leaves or seeds;
3. The regeneration of trees by the replanting of trees at the rate of 1 inch caliper per every 100 square feet of tree disturbing activity area within 220 days of harvesting; and
4. The application of “best management practices,” including the NC Department of Environment, Health and Natural Resources, “Forest Practice Guidelines Related to Water Quality”—Title 15A North Carolina Administrative Code, subchapter 11, sections 1.101—.0209 and all successor documents.
5. A forest management plan is prepared or approved either by a professional forester registered in the State of North Carolina or by the Division of North Carolina Forest Resources. Copies of the forest management plan shall be provided to the City upon request.

**Frontage**

There are 7 frontages, including: Parkway (-PK), Detached (-DE), Parking Limited (-PL), Green, Urban Limited (UL), Urban General (-UG) and Shopfront (-SH).

**Front Wall Plane**

The building facade facing the primary street right-of-way. If this facade contains wall articulation, the entire length of the articulated wall shall constitute the front wall plane. Bay windows shall not be considered part of the front wall plane.

**Front Yard**

The area located between the front line of a building or structure and the front boundary of a lot or an existing or proposed street right-of-way and extending along the entire width of the lot.

**Full Cutoff Fixture**

An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

**Future Conditions Flood**

The flood having a 1 percent chance of being equaled or exceeded in any given year based on future conditions hydrology.

**Future Conditions Flood Elevation**

A determination of the water surface elevations of the 1 percent annual chance flood based on future conditions hydrology as published in the flood insurance study. This elevation, when combined with 2 additional vertical feet, establishes the regulatory flood protection elevation in future conditions flood hazard areas.

**Future Conditions Flood Hazard Area**

The land area that would be inundated by the 1 percent annual chance flood based on future conditions hydrology as determined in this UDO.

**Future Conditions Hydrology**

The flood discharges associated with projected land use conditions based on Raleigh's zoning maps or the Comprehensive Plan's Future Land Use Map or both and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway such as bridge and culvert construction, fill and excavation. Future conditions flood discharges are published in the flood insurance study.

**g****Glare**

The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort or loss of visual performance and ability.

**Governmental Entity**

Any department, commission, agency or other instrument of the Federal, State, County or municipal government.

**Gross Floor Area**

The sum in square feet of the gross horizontal area of all floors of a building measured from the exterior walls or from the centerline when 2 buildings or units abut. Gross floor area includes basement floor area when more than 50% of the basement height is above the established curb level or above the finished lot grade level where the curb level has not been established. Elevator shafts, stairwells, floor space used for mechanical equipment, attics, balconies and mezzanines, enclosed porches and floor area devoted to accessory uses are included in the calculation of

gross floor area. However, the following shall not be included: any space devoted exclusively to on-site parking; outdoor loading, display, storage, utility service areas; and/or uninhabited enclosed space on tops of roofs; or attic space having head room of less than 7'-10".

**Ground Cover**

Any living or nonliving material incorporated in or covering the surface of the soil which controls accelerated erosion and prevents off-site sedimentation in accordance with this chapter.

**h****Hazardous Tree**

A tree is hazardous when it meets all of the following as determined by a Certified Arborist:

1. It has a structural defect that predisposes the entire tree, or at least 1/5 or more of the tree's crown, to structural failure;
2. The DBH of the tree predisposed to structural failure is at least 10 inches, or the diameter of the crown limb(s) predisposed to structural failure is at least 8 inches at the largest point;
3. The structural defect has a failure potential of "medium" or greater as described in the current edition of *A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas*, published by the International Society of Arboriculture, and cannot be remedied by an accepted arboricultural practice;
4. A target exists beneath or adjacent to the tree that could be injured or damaged, including but not limited to: pedestrians, vehicles, streets, sidewalks, buildings and other man-made structures.

**Hazardous Waste Facility**

A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste, as defined in N.C. Gen. Stat. §130A-290.

**Heritage Tree**

A single-trunk shade tree that is 24 inches DBH or larger, or a single-trunk understory tree that is 12 inches DBH or larger that is not unhealthy and not a hazardous tree.

**High-Quality Waters**

Waters classified in title 15A North Carolina Administrative Code chapter 2B section .0101(e)(5) - General Procedures and amendments thereto, all of which is incorporated by reference.

**High-Quality-Water (HQW) Zones**

Those areas that are within both 1 mile and drain to high-quality waters.

**Historic Landmark**

A building, site or object that has been designated by the City Council as either a historic site, property or landmark.

**Hospital**

One or more buildings or structures located on the same lot primarily devoted to the rendering of health, medical and nursing care to persons on an in-patient basis and which provide facilities and services of a scope and type customarily provided by hospitals, which may include facilities for intensive care and self-care; clinics and out-patient facilities; clinical, pathological and other laboratories; health care research facilities; laundries; training facilities for nurses, interns, physicians and other staff members; food preparation and food service facilities; administration buildings, central service and other administrative facilities; medical office facilities owned and operated by the hospital for physicians who are members of the hospital medical staff; and other general hospital facilities.

**Household**

One or more persons occupying a dwelling unit, provided that unless all members are related by blood, marriage or adoption, no household shall contain more than 4 unrelated persons. A household may include 5 or fewer foster children placed in a family foster home licensed by the State of North Carolina.

**i****Impervious Surface**

Any material that significantly reduces and prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to roofs, patios, balconies, decks, streets, parking areas, driveways, sidewalks and any concrete, stone, brick, asphalt or compacted gravel surfaces. The effective impervious coverage for certain surfaces listed below are as follows:

1. Asphalt, concrete, crusher-run gravel, masonry, marl, wood and other impermeable surfaces that prevent land area from infiltrating stormwater are 100% impervious.
2. Porous surfaces that permit direct infiltration of unconcentrated stormwater into ground areas which are prepared in accordance with plans approved by the Inspections Department of the City so that the first one-half inch of stormwater infiltrates into the ground are 70% through 10% impervious, depending on:
  - a. Compaction;
  - b. Condition of subgrade;
  - c. Extent of land disturbance;
  - d. Extent of porous openings;
  - e. Protection from siltation and clogging;
  - f. Slope of the ground area; and
  - g. Volume of stormwater stored.
3. Slatted wood decks that allow the drainage of water through the slats to an unpaved surface below are 50% impervious. If the area covered by the deck is washed gravel, the deck is 30% impervious.
4. Ungraveled natural footpaths, water surfaces of swimming pools and drainfields are 0% impervious.
5. All other necessary determinations about impervious surfaces will be based on hydrological tests based on existing subgrade soils, slope, rainfall intensity and rainfall duration.

**Indigenous/Locally Adapted Species**

Plant and animal life forms which are naturally found in the State of North Carolina.

**Interior Lot**

A lot other than a corner lot.

**Internal Illumination**

A light source concealed or contained within the sign itself, such as a neon tube, which becomes visible in darkness by shining through a translucent surface.

**Internal Refractive Lens**

A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

**Lake, Watercourses**

Any natural or relocated stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension and which could be damaged by an accumulation of sediment.

**Land-Disturbing Activity**

Any use of the land by any person in residential, recreational, industrial, educational, service, institutional, civic, office or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography or alters the natural structure of the land mass and that may cause or contribute to sedimentation.

**Landfill (debris from on-site)**

A demolition landfill that is limited to receiving from the site stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other uncontaminated solid waste from construction activities on the same site.

**Light Source**

The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

**Loading Area**

An area which contains trash collection areas, refuse containers, outdoor loading and unloading spaces, docks, outdoor shipping and receiving areas, outdoor bulk storage of materials or parts thereof and outdoor repair areas of any service stations, safety equipment inspection stations or dealers.

**Locally Adapted Species**

Non-native species of animal and plant life that are adapted to the climatic conditions of North Carolina.

**Lot Coverage**

The amount of net lot area within designated floodway fringe areas and future conditions flood hazard areas expressed in terms of a percentage that is covered by any obstruction restricting or displacing the flow of flood waters and any fill added to the lot after May 3, 2006.

**Lowest Floor**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not constructed so as to render the structure in violation of the applicable non-elevation design requirements of this UDO.

**Lumen**

A quantitative unit measuring the amount of light emitted by a light source.

**m****Manufactured Home**

A structure transportable in one or more sections that is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation. The term includes mobile homes, park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**Manufactured Home Park**

A lot which contains or is intended to contain manufactured home spaces for lease or unit ownership (condominium) pursuant to N.C. Gen. Stat. Chapter 47C.

**Manufactured Home Space**

A plot of land within a manufactured home park designed for the accommodation of a single manufactured home.

**Manufactured Home Stands or Pads**

That portion of the manufactured home space designed for occupancy by a manufactured home.

**Major Access Corridor**

A street or highway designed to move large volumes of through traffic from 1 area to another and usually built and maintained with Federal assistance. These corridors usually have separated grades and a minimum of traffic signals. The following are major access corridors: I-40, I-440, 64 By-pass, U.S. 1, U.S. 70, U.S. 64 and U.S. 401, Wade Avenue between I-440 and I-40 and Northern Wake Expressway.

**Maintained Footcandles**

Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

**Mean Sea Level**

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. The term is synonymous with National Geodetic Vertical Datum (NGVD).

**Mechanical Equipment**

Machines and devices, including HVAC units, fans, vents, generators and elevator motors, integral to the regular operation of climate control, electrical and similar building systems.

**Medium Base**

The size of lamp socket designed to accept a medium or Edison base lamp.

**Metro Park**

The following park: William B. Umstead State Park.

**Minor Tree Removal Activity**

The lawful removal of a tree, other than a champion tree and trees protected in either Resource Management District or natural protective yard, which is unrelated to forestry general or to the installation of any driveway, use, structure, facility improvement, site plan or subdivision, is a minor tree removal activity when it meets one or more of the following:

1. Unsafe trees are removed within 1 year following a natural disaster declared by the State of North Carolina or City of Raleigh such an ice storm, hurricane or tornado.
2. Fewer than 16 trees with a DBH of 3 inches or more are lawfully removed from the property within any continuous twelve month period, provided that the subsequent subdivision of the property shall not increase the number of trees which can be removed from the property and that no tree 10 inches or greater in DBH is removed if such tree is located:
  - a. Within 50 feet of a right-of-way of any thoroughfare; or
  - b. Within 32 feet of any vacant adjoining property boundary line; or
  - c. Within 65 feet of any other property line or urban forestry.
3. The term "vacant" means that at the time of application for development there is no building or structure or vehicular surface area within 200 feet from the common property line of the property being developed and the adjoining or adjacent property.
4. An arborist, certified by the International Society of Arboriculture or a forester registered by the State of North Carolina or a landscape architect licensed by the State of North Carolina first certifies in writing to the City that the tree is either unsafe or is unhealthy and applicable soil erosion and sedimentation laws are obeyed.
5. The tree is less than 3 inches DBH.
6. The tree is damaging an existing improvement on the lot.
7. The lawful removal of trees located on lots of record existing prior to the application of this regulation that are less than 2 acres in size.
8. The tree to be removed is for a City of Raleigh project to install or maintain public infrastructure and is unrelated to any site plan, subdivision or building permit.

**Mixed Use District**

The following general use or conditional use zoning districts: Residential Mixed Use (RX)-, Office Park (OP-), Office Mixed Use (OX-), Neighborhood Mixed Use (NX-), Commercial Mixed (CX-), Downtown Mixed Use (DX-) and Industrial Mixed Use (IX-).

**Modified Natural Stream**

An on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological and physical characteristics commonly associated with the continuous conveyance of water.

**n****Natural Protective Yard**

A landscaped yard area that contains no buildings, vehicular surface area, loading, storage or display service areas, in which no tree disturbing activity or grading shall take place unless in accordance with an approved tree removal permit. No tree removal permit shall be issued if the cumulative grading and tree removal exceeds 30% of any natural protective yard.

**Natural Resource Buffer Yard**

Buffer areas that limit land disturbing activities adjacent to fragile environmental areas, which include, but are not limited to, watercourse buffers.

**New Construction**

Structures for which the “start of construction” commenced on or after the effective date of this UDO and includes any subsequent improvements to such structures.

**O****Off-Premises Sign**

Any sign or structure, pictorial or otherwise, regardless of size or shape that directs attention to a business, commodity, attraction, profession, service or entertainment conducted, sold, offered, manufactured, existing or provided at a location other than the premises where the sign is located or to which it is affixed. Sometimes called non-point-of-sale sign.

**Off-Site Stormwater Control Facilities**

The overall design, construction and maintenance of one or more devices and measures and associated drainage easements, conduits, inlets, channels, pipes and ditches, level spreaders, filters, buffers, bioretention areas, sand filters, detention basins, wetlands and ponds necessary to collect, convey, store and control stormwater runoff and pollutants for more than 1 lot. Stormwater control facilities serving contiguous properties or a subdivision or a portion of a subdivision greater than 1 lot are examples of off-site stormwater control facilities.

**One Hundred-Year Storm**

The stormwater runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 100 years and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

**On-Premise Sign**

Any sign or structure, pictorial or otherwise, regardless of size or shape that directs attention to a business, profession, commodity, attraction, service or entertainment conducted, offered, sold, manufactured, existing or provided at a location on the premises where the sign is located or to which it is affixed. A sign that identifies both an on-premises subsidiary and an off-premises parent company is an off-premises sign.

**On-Site Stormwater Control Facilities**

The overall design, construction and maintenance of one or more devices and measures and associated drainage easement, conduits, inlets, channels pipes, ditches, level spreaders, filters, buffers, bioretention areas, sand, filters, detention basins, wetlands and ponds, necessary to collect, convey, store and control stormwater runoff and pollutants within and for a single lot.

**Open Space, Active**

Improvements to accommodate recreation or activity, such as play fields and play courts, excluding sidewalks and greenways.

**Open Space Area**

Primarily vegetated areas where development is restricted and no additional impervious surface may be placed without first obtaining a permit from the City. The following are open space areas: active or passive open space areas, greenways, public parks, natural protective yards set forth in conditional use zoning districts and permanently protected undisturbed open space areas.

**Outdoor Advertising Sign**

Any off-premises, off-site, poster panel, billboard or non-point-of-sale sign.

**Outdoor Mobile Vending Cart**

A non-motorized cart with wheels that is temporarily stored on a premise where goods or merchandise are sold to the general public.

## p

---

**Parapet Wall**

That portion of any building wall that rises above the level of the roof line.

**Passive Open Space**

Generally an undeveloped space or environmentally sensitive area that requires minimal development. These open space areas can include pedestrian or bicycle pathways or greenways.

**Pedestrian Area**

An area used primarily for walking, such as a sidewalk or greenway.

**Phase of Grading**

One of 2 types of grading, rough or fine.

**Play Courts**

Recreation facilities that operate and use a court such as tennis, basketball, handball, squash, croquet, shuffleboard, volleyball and racquetball courts and clubs.

**Play Fields**

Areas in which field games are played and that contain less than 250 seats. Play fields include: baseball, field hockey, football, lacrosse, soccer, softball and open play areas.

**Pre-Development Conditions**

The land use, drainage and impervious surface conditions existing on the site at the time plans are submitted for approval, including any previously approved development plans for the site which has not sunsetted, projects which have an outstanding valid building permit in compliance with N.C. Gen. Stat. §160A-418 and §160A-422 or §153A-358 and §153A-362 and projects that have obtained a State permit such as landfills, land application of residuals on the site.

**Post-Development Conditions**

Pre-development conditions together with the land use, drainage and impervious conditions that would exist on the site if all proposed development plans for the site are fully completed.

**Premises**

The term premises is interchangeable with the term lot.

**Principal Arterial**

Principal arterials are comprised of limited-access freeways, expressway and gateway arterials. Principal arterials are the same roads as major access corridors.

**Principal Building or Use**

The building, structure or land that contains the primary function or activity on a lot.

**Project**

A site under unified control for the purposes of development.

**Protective Yard**

A landscaped yard area which contains no buildings, vehicular surface area, loading, storage or display service areas. For street protective yards, driveways and sidewalks necessary to serve the development may be permitted, provided that they are perpendicular to the protective yard. Protective yards include transitional protective yards, street protective yards and Zone A transition zones.

## q

---

### **Queuing Area**

The space devoted to vehicle waiting areas associated with a drive through or drive up facility. The queuing area begins at the point of service, such as a drive through window.

## r

---

### **Raleigh Stormwater Control and Watercourse Buffer Manual**

A manual adopted by the City Council by reference, as fully as though set forth in this UDO that includes plan and data submission requirements, presents design procedures and criteria for conducting natural, hydrologic and hydraulic evaluations, best management practice designs, regulations for riparian surface water buffers, standards for managing the volume and quality of stormwater runoff and standards for maintenance.

### **Rear Yard**

The area located between the rear line of a building or structure and the rear boundary of a lot or an existing or proposed street right-of-way and extending along the entire width of the lot.

### **Receiving Watercourse**

A lake, natural watercourse or other natural or man-made area into which stormwater runoff flows from a land-disturbing activity site.

### **Recyclable Material**

Material including, but not limited to, metals (including vehicles which have been crushed off site), glass, rubber (including tires), plastic, paper and scrap, which is intended for reuse or reconstitution for the purpose of using the altered form. Recyclable material shall not include hazardous materials and wastes (as defined in 40 CFR 261.3 to 261.33 or as the same may be amended by law), garbage, biodegradable refuse such as food, medical wastes or other similar material and wrecked, dismantled or partially dismantled automobiles.

### **Refereed Journal**

Publications reviewed by expert readers or referees prior to the publication of the material. After reading and evaluating the material, the referee informs the publisher if the document should be published or if any changes should be made prior to publication. Refereed materials are significant to the research and the literature of most academic fields because they assure readers that the information conveyed is reliable and timely.

### **Regional Stormwater Control Facilities**

The overall design, construction and maintenance of measures and devices and associated drainage easement, conduits, inlets, channels, pipes, ditches, filters, buffers, bioretention areas and ponds that are necessary to collect, convey, store and control stormwater runoff and pollutants within or outside a development and for one or more developments, as shown on the stormwater control master plans approved by the State of North Carolina.

### **Regulatory Flood Protection Elevation**

The elevation to which structures and uses within floodway fringe areas and future conditions flood hazard areas are required to be elevated or floodproofed. Within areas which have approved engineered flood studies, such as the FEMA flood insurance study and floodway fringe areas, this elevation will be the "without floodway" base flood elevation plus 2 additional vertical feet. Base flood elevations are shown in the flood insurance study for Wake County, Volumes 1 through 7. Within future conditions flood hazard areas, this elevation will be the future conditions flood elevation plus 2 additional vertical feet. Future conditions flood elevations are shown in the flood insurance study for Wake County, Volumes 1 through 7. For flood hazard soil areas and for areas without established flood elevations within watercourses which drain 1 square mile or more, this elevation is the topographic contour lying 5 vertical feet from the outermost boundaries of either the flood hazard soils or the made land, which traverse such soils. The regulatory flood protection elevation for flood hazard soil areas and for areas without established flood elevations within watercourses which drain less than 1 square mile is the elevation of the outermost boundaries of either the flood hazard soils or the made land which traverse such soils plus 2 additional vertical feet, or as determined from a flood hazard soil interpretation. The regulatory flood protection elevation shall be the base flood elevation established on the drainage basin study maps plus 2 additional vertical feet.

**Replacement Cost**

Either the median value based Square Foot Costs established by the most recent edition of Building Construction Cost Data published by R.S. Means or the most recent tax value for a building as reported in the County tax office. The property owner shall decide which of the 2 methods for determining replacement cost is to be used.

**Residential District**

The following general use and conditional use zoning districts: Residential-1 (R-1), Residential-2 (R-2) Residential-4 (R-4), Residential-6 (R-6) and Residential-10 (R-10). Includes Manufactured Housing (MH).

**Resource Management District**

The following general use, conditional use zoning and overlay zoning districts: Conservation Management (CM), Metro-Park Protection Overlay District (-MPOD), Special Highway Overlay District-1 (-SHOD-1) and Special Highway Overlay District-2 (-SHOD-2).

**Riparian Surface Water**

Actual surface water that is shown as a feature on either the most recent version of (a) the soil survey map prepared by the Natural Resources Conservation Services of the United States Department of Agriculture or (b) the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS) except for the following surface waters:

1. Man-made channels, such as ditches and canals, other than a modified natural stream.
2. Man-made ponds and lakes that are located outside natural drainage ways.
3. Ephemeral (stormwater) streams.

**Rooming Unit**

Any room or group of rooms forming a single habitable unit used for living and sleeping, but not for cooking or eating purposes.

**S****Sadomasochism Center**

Any for profit establishment wherein the practice of flagellation, torture or fettering is used or administered to an individual either by an employee of the establishment or a patron of the establishment.

**Salvage Yard**

Any nonresidential property used for the storage, collection or recycling of any type of equipment, including but not limited to vehicles, appliances and related machinery.

**Sediment**

Solid particulate matter, both mineral and organic, that has been or is being transported by water, wind, gravity or ice from its point of origin.

**Sedimentation**

The process by which sediment resulting from accelerated erosion has been or is being transported off a site of the land-disturbing activity or into a lake or watercourse.

**Senior Housing**

Housing for residents at least 62 years in age. The housing must comply with the Federal Fair Housing Act.

**Shade Tree**

An evergreen or deciduous tree whose mature height can be expected to exceed 35 feet and which has an expected crown spread of 30 feet or more or is considered a shade tree in accordance with "American Standards of Nursery Stock", set forth by the American Association of Nurserymen.

**Side Yard**

The area located between the side line(s) of a building or structure and the side boundary of a lot or an existing or proposed street right-of-way and extending along the entire length of the lot.

**Sign**

Any temporary or permanent identification, description, animation, illustration or device, illuminated or non-illuminated, which is visible from any right-of-way and which directs attention to any realty, product, service, place, activity, person, institution, performance, commodity, firm, business or solicitation, including any permanently installed or situated merchandise or any emblem, painting, banner, poster, bulletin board, pennant, placard or temporary sign designed to identify or convey information.

**Siltation**

The sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed and maintained control measures and which has been transported from its point of origin within the site of a land-disturbing activity and which has been deposited or is in suspension in water.

**Solid Waste Disposal Facility**

Any facility involved in the disposal of solid waste, as defined in N.C. Gen. Stat. §130A-290(a)(35).

**Special District**

The following general use and conditional use zoning districts: Conservation Management (CM), Agricultural Productive (AP), Heavy Industrial (IH), Manufactured Home Park (R-MP) and Campus (CMP).

**Start of Construction**

The date a building permit was issued, provided the actual "start of construction," repair, reconstruction, rehabilitation, addition, placement or other improvement was made within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a "manufactured home" on a foundation. For a substantial improvement, the actual start of construction is the first alteration of any load-bearing wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Stepback**

The horizontal distance of a building facade that is recessed on a horizontal plane.

**Stormwater Control Devices**

The overall design, construction and maintenance of one or more devices, measures and associated drainage easements, conduits, inlets, channels, pipes and ditches, level spreaders, filters, buffers, bioretention areas, sand filters, detention basins, swales, wetlands and ponds or any other City-approved best management practice necessary to collect, convey, store, treat and control stormwater runoff and pollutants.

**Stormwater Control Facilities**

Off-site stormwater control facilities, on-site stormwater control facilities, regional stormwater control facilities or any combination thereof.

**Stormwater Control Master Plan**

A conceptual plan approved by the City Council which establishes stormwater control policies and recommendations for an entire watershed or region as an alternative to individual site specific stormwater control plans.

**Storm Drainage Facilities**

The man-made system of inlets, conduits, channels, ditches or other such facilities and appurtenances which collect and convey stormwater.

**Stormwater Runoff**

Runoff of water resulting from precipitation in any form.

**Street Furniture**

Physical improvements required by approved streetscape plans including but not limited to: benches, bicycle racks, pedestrian lighting, trash receptacles, planters, flower boxes/pots or other objects located outdoors.

**Street Protective Yard**

A landscaped protective yard adjacent to a street right-of-way.

**Structural Flooding**

Crawlspace, finished floor, garage and/or basement flooding caused by concentrated stormwater flows and not groundwater infiltration. Structural flooding also occurs in sheds and outbuildings on a permanent, enclosed foundation that cannot be easily moved. Sheds and outbuildings not on permanent, enclosed foundations or that can be easily moved and where moving the structure is the least cost alternative to prevent flood damage to the structure, are not defined as

having structural flooding. Structural flooding does not include those portions of residential and commercial structures located in a floodplain area and designed and constructed to flood or a commercial structure that has a City approved floodproofing plan.

#### **Substantial Damage**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed the 50% of the estimated market value of the structure before the damage occurred.

#### **Substantial Improvement**

Any reconstruction, repair, rehabilitation, addition or other improvement of a structure, the cost of which over a 5 year period singularly or collectively equals or exceeds 50% of the market value of the structure before the "start of construction" of the substantial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual amount of repair work performed. The term does not include any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

#### **Sustainable Energy Systems**

On-site renewable energy generation technologies such as a solar array, solar collection system, wind energy system or geothermal energy system.

## t

---

#### **Ten-Year Storm**

The stormwater runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 10 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

#### **Thoroughfare**

A street delineated as a major thoroughfare or a minor thoroughfare on the Comprehensive Plan or a major access corridor. Major thoroughfares include: (1) principal arterials, which are either gateways, freeways or expressways; (2) secondary arterials; (3) other major thoroughfares; or (4) any Major Street identified in *Article 8.4*.

#### **Transparency**

The ability to transmit light so objects on the other side of the material are visible. As applied to windows, the transparent material must pierce the building façade with a minimum distance of 4 feet maintained free of building materials, shelving or other impediment so that views are provided into and out of the building.

#### **Tree Disturbing Activity**

Any activity that results in one or more of the following:

1. The movement of earth, compaction of earth, chemical or physical alteration of earth or a change in the existing soil cover (both vegetative and non vegetative) or the existing soil topography in the critical root zone of a tree or within any tree conservation area, including but not limited to: chemical application, clearing, grading, filling, excavation, stabilization of structures and road or walkway construction
2. Chemical or physical alteration of a tree in any way that diminishes its health and vigor, including but not limited to removal, cutting, root pruning, branch pruning, topping, bark scraping and application of chemical or biological agents.
3. The placement within the critical root zone or within any tree conservation area of any permanent or temporary encroachment, including but not limited to application of impervious surfaces, storage of equipment, materials, earth parking or circulation of vehicles or equipment.

#### **Twenty Five-Year Storm**

The stormwater runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

**Two-Year Storm**

The stormwater runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 2 years and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

**U****Uncovered**

The removal of ground cover from, on or above the soil surface.

**Understory Tree**

An evergreen or deciduous tree whose mature height can be expected to range between 15 feet and 35 feet and which has an expected crown spread range between 15 feet and 25 feet as determined by the latest edition of "American Standards of Nursery Stock" as set forth by the American Association of Nurserymen.

**Undisturbed Area**

An area free of any tree disturbing activity except the planting of required landscaping and plantings required by conditional use zoning requirements.

**Unhealthy**

A plant or tree that meets any one or more of the following:

1. Its foliage and bark have a form and color that is not characteristic of the species similarly located within the city;
2. Its twig elongation is dissimilar to that of others of the same species and size similarly located within the city;
3. It is not free from infestation of insects and detrimental diseases;
4. More than 10% of its trunk circumference dies in any 1 calendar year;
5. More than 30% of its crown dies or is lost in any 1 calendar year; and/or
6. It no longer screens, filters or shades the area for which it was installed.

**Unity of Development**

The visual and functional integration of buildings within a development or area.

**Urban Frontage**

The following frontages: Parking Limited (-PL), Green (-GR), Urban Limited (UL), Urban General (-UG) and Shopfront (-SH).

**Utility Service Area**

An area which contains any utility box, booster box, switching station, transformer, pedestal or backflow preventor or similar above-grade device used to serve underground utilities.

**Utility Service Plan**

A plan associated with a Planned Development Master Plan that provides information for mail distribution and solid waste collection.

**V****Vehicular Canopy**

A roofed and open drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.

**Vehicular Surface Area**

An area where motor vehicles are either stored or driven, including private driveways and private streets, parking lots, vehicular display lots, rental lots and depots, but not including parking buildings or areas which are used exclusively as loading areas and service areas.

**Velocity**

The average velocity of water flow through the cross-section of an effluent main channel at the peak flow of the storm of interest. The cross-section of the main channel, if any, shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overbank flows are not to be included for the purpose of computing velocity of flow.

## W

---

### Wall Pack

A type of light fixture typically flush-mounted on a vertical wall surface.

### Wall plate

A structural element, usually horizontal, situated along the top of a wall at the level of the eaves for bearing the ends of joists or rafters.

### Wide-Body Refractive Globe

A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look including but not limited to acorn- and carriage light-style fixtures. "Wide-body" refers to a wider than average size globe (greater than 15.75 inches in diameter). "Refractive" refers to the redirection (bending) of the light as it goes through a lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

## Housing Code Definitions

---

### Agent

Any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property or who makes application for or seeks a permit or certificate on behalf of the owner of any property or who in any other way represents the owner or the property in any particular case.

### Basement

A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

### Cellar

A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

### Dwelling

Any building, structure, manufactured home, mobile home or part thereof, used and occupied for human habitation or intended to be so used and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any temporary housing as hereinafter defined.

### Duplex

A structure containing 2 complete and separate dwelling units with a common wall or ceiling and under 1 roof.

### Dwelling unit

One or more rooms physically arranged as to create an independent housekeeping establishment with separate facilities for cooking, sleeping and toilet.

### Equivalent dwelling unit.

For purposes of computing the means of egress required by this chapter, the following shall be considered equivalent to a dwelling unit: any room or rooms not provided with cooking facilities and occupied by 4 persons within a rooming house, fraternity, sorority, rest home or any dwelling however styled.

### Extermination

The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

### Family

An individual or 2 or more persons related by blood to the third degree lineally or the fourth degree collaterally, marriage or adoption living together in a dwelling unit; or a group of not more than 4 persons, one or more of whom is not related by blood as described above, marriage or adoption to the other. A family may include 5 or fewer foster children placed in a family foster home licensed by the State of North Carolina.

### Garbage

the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**Habitable room**

A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

**Infestation**

The presence, within or around a dwelling, of any insects, rodents or other pests in such numbers as to constitute a menace to the health, safety or welfare of the occupants or to the public.

**Inspector**

The Inspections Director or his authorized inspectors. In addition to the powers and responsibilities granted in this article, the Inspections Director or his designee shall exercise the powers and responsibilities given to "public officer" in G.S. 160A-441 et seq.

**Meaning of certain words**

Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

**Multiple dwelling**

Any dwelling containing more than 2 dwelling units.

**Occupant**

Any person, regardless of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

**Operator**

Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

**Owner**

any person who alone or jointly or severally with others: Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or shall have charge, care or control of any dwelling or dwelling unit, as owner or

agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner. Plumbing and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supply fixtures, together with all connections to water, sewer or gas lines.

**Rooming house or lodging house or tourist home.**

A type of equivalent dwelling located in a dwelling which contains rooms without cooking facilities that are rented to the general public as a whole to more than 4 persons.

**Rooming unit**

Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

**Rubbish**

Combustible and noncombustible waste materials, except garbage and ashes and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

**Supplied**

Paid for, furnished or provided by or under the control of, the owner or operator.

**Temporary housing**

Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

**Unfit for human habitation**

That conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.