

ARTICLE 1

GENERAL PROVISIONS

Summary: This Article provides an introduction to the structure and the legal framework of the Concord Development Ordinance (the “CDO”). The CDO combines the zoning and subdivision authority of the City into one document. This Section recites applicable statutory authority, the applicability of the CDO to various uses and geographic areas of the City and its incorporated areas, consistency with the Area Plans (the Land Use Plan), coordination with other regulations, the effective date, violations, and related matters.

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1.1 GENERAL PROVISIONS

1.1.1 TITLE.

This Ordinance shall be known and may be cited as the Concord Development Ordinance (hereinafter "the Ordinance"). This Ordinance may also be known and may be referred to as the "CDO."

1.1.2 PURPOSE.

The Ordinance enables the City to respond uniformly and consistently to development proposals and to promote the health, safety, and general welfare of residents. The City is also working towards unified development goals that promote the welfare of the entire region, while providing uniformity, certainty, and predictability for persons subject to this Ordinance. This Ordinance also attempts to provide flexibility in dealing with situations that may fall outside typical processes and requirements. The elements that make up the Ordinance are interrelated and cannot be taken in isolation; they must be taken within the context and intent of the entire Ordinance. Specifically, the purposes of this Ordinance are described in subsections 1.1.3 through 1.1.4 of this Section.

1.1.3 ZONING REGULATIONS.

- A. Zoning regulations are included in Articles 4, 6 and 7 through 13. Pursuant to NCGS § 160D- 101-111 and 201-204 et seq., the power of zoning is exercised in order to implement the *Comprehensive Land Use Plan*, and to:
1. Lessen congestion in the streets;
 2. Secure safety from fire, panic, and other dangers;
 3. Promote health and the general welfare;
 4. Provide adequate light and air;
 5. Prevent the overcrowding of land;
 6. Avoid undue concentration of population;
 7. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
 8. Protect and/or to enhance the character of each *zoning district* and its peculiar suitability for particular uses;
 9. Conserve the value of buildings; and
 10. Encourage the most appropriate use of land throughout the planning areas.

1.1.4 SUBDIVISION REGULATIONS.

- A. Subdivision regulations are included in Article 5. Pursuant to NCGS § 160D-804, the power of subdivision control is exercised in order to:
1. Implement the *Comprehensive Land Use Plan* for the City;
 2. Provide for the orderly growth and development of the City and for the efficient use infrastructure and resources (land, water, roads, etc.);
 3. Provide for the coordination of *streets* and *highways* within proposed *subdivisions* with existing or planned streets and highways and with other public facilities;
 4. Provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for provision of funds to be used to acquire recreation areas serving residents of the neighborhood and/or for residents within the immediate area,
 5. Provide for the dedication or reservation of and *rights-of-way* or easements for street and utility purposes including the dedication of rights-of-way pursuant to NCGS §§ 136-66.10 or NCGS 136-66.11;
 6. Provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding
 7. Provide for the distribution of population and traffic that will enhance public health, safety, and the general welfare;
 8. Provide that sufficient data is presented accurately by subdividers to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines;
 9. Provide for the more orderly development of *subdivisions* by requiring the construction of community service facilities in accordance with municipal or county policies and standards and, to assure compliance with these requirements, by requiring the posting of bonds or any other method that will offer guarantee of compliance;
 10. Provide for the reservation of school sites in accordance with Comprehensive Land Use Plans approved by the City and/or Cabarrus County School Board.
 11. Require the preparation and recording of a *plat* whenever any subdivision of land takes place;

12. Provide that a developer may offer funds for the City to acquire recreational land to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area; and
13. Provide that, in lieu of required street construction, a developer may be required to provide funds for the City to construct roads that serve the neighborhood and these funds may be used for roads which serve more than neighborhood within the area.

1.1.5 AUTHORITY.

The City is authorized by the North Carolina General Statutes (“NCGS”) to exercise broad powers in the regulation of zoning, planning, subdivision of land, and building including but not limited to, enacting ordinances, procedures and fee schedules related to the administration and enforcement of development regulations. The City through the CDO intends to use all powers provided by virtue of NCGS § 160D-101-111 and 201-204 . The CDO also uses specific powers granted in other Sections of the NCGS relating to particular types of development or particular development issues, including but not limited to right-of-way preservation, sedimentation control, watershed protection, historic preservation, and beautification and urban design.

1.1.6 APPLICABILITY.

- A. The Ordinance shall apply to all public buildings and private land(s), and use(s) thereon over which the City has jurisdiction under the constitution(s) and law(s) of the State of North Carolina and of the United States, including any areas within the jurisdiction of the City pursuant to NCGS § 160D 101-111 and 201-204.
- B. Pursuant to NCGS § 160D-913, each provision of this CDO is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. The Planning and Neighborhood Development Department (hereinafter known as the "Department") of the City can be contacted for further information about the use of this Ordinance.
- C. The Official Zoning Map of the City of Concord, North Carolina and all notations, references, and other information shown on the map are hereby incorporated and made a part of this Ordinance.
- D. See Section 2.1.2 relative to the establishment of the “Administrator.”

1.1.7 BUILDING AND LAND USE.

The use of buildings and land within the City shall be subject to all other regulations as well as this Ordinance, whether or not such other provisions are specifically referenced in this Ordinance. References to other regulations or provisions of the Ordinance are for the convenience of the reader; lack of a cross-reference should not be construed as an indication that other regulations do not apply.

1.1.8 PERMITS AND CERTIFICATES.

No development activity shall occur on any property within the jurisdiction of this Ordinance until all applicable permits, approvals and certificates have been issued and approved by the appropriate officials.

1.1.9 FEES.

The City Council may establish any fees necessary to support, administer, and implement development regulation in accordance with this Ordinance. These fees shall be reasonable and all fees collected will be used for the previously mentioned purposes. No permit shall be processed, and no permit shall be considered to be submitted, until all applicable administrative fees have been paid.

1.1.10. SEVERABILITY.

It is hereby declared to be the intent of the City Council that the provisions of this Ordinance shall be severable. If any provision is declared invalid by a court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and such decision shall not affect, impair or nullify this Ordinance as a whole or any other part thereof, but the rest of the Ordinance shall continue in full force and effect.

1.1.11. PUBLIC LANDS AND PUBLIC ENTERPRISES.

Pursuant to NCGS § 160D-913, no land owned by the State of North Carolina may be included within an overlay district or a special use or conditional use district without approval of the Council of State.

1.1.12. OTHER PLANS, ORDINANCES AND MANUALS ADOPTED BY REFERENCE

This Ordinance also includes the following technical publications all adopted by reference: the Technical Standards Manual, NCDENR Stormwater BMP Manual, Water System Master Plan, the Wastewater System Master Plan and the Concord Development Ordinance. It is the intent of the City to administer this Ordinance in accordance with these supplemental plans and manuals.

1.2 CONSISTENCY WITH COMPREHENSIVE PLAN

1.2.1 GENERALLY

Pursuant to NCGS § 160D-604(d) et seq., this Ordinance is intended to implement the goals, objectives, and policies of the Comprehensive Plan (also known as “Land Use Plan”, which may be used interchangeably within this Ordinance) along with related area and corridor plans. Any amendments to, or actions pursuant to the Ordinance shall be consistent with the applicable Land Use Plan. The Land Use Plan may be amended, and the CDO will reflect those amendments. Plans adopted under the Comprehensive Plan shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations and commenting on plan consistency as required by NCGS § 160D-604 et seq.

1.2.2 COMPREHENSIVE PLAN DEFINED.

The following elements or volumes are components of the Comprehensive Plan:

- A. Land Use Plan.** This plan presents the City’s declaration of its official policy with regard to the form and pattern of future development. It directs growth by serving as a reference guide when considering rezoning, annexation, subdivisions, and site plans. The plan also is used to direct provision of public infrastructure and aid decisions for private sector investment. Included within the Land Use Plan are several smaller “Area Plans” which serve as amendments or extensions to the official Land Use Plan. Such Area Plans include, but are not limited to: the Center City Plan and the Downtown Master Plan, Warren C. Coleman and Concord Parkway Plan, Concord Parkway Roberta Church Road Plan
- B. Parks, Greenways, and Bikeways Master Plan (Livable Communities Blueprint for Cabarrus County).** This plan addresses the enhancement and future implementation of a system of parks, greenways, and bikeways to meet future recreation and transportation needs of local residents.
- C. Long Range Transportation Plan.** This plan sets forth the City’s overall objectives and strategies regarding both long-term and short-term planning of roadways, bicycle facilities, pedestrian facilities, and transit.
- D. Open Space and Connectivity Analysis.** This plan identifies feasible, constructible bicycle and pedestrian routes along stream corridors, through open spaces, and along roads to create a more connected City.

1.2.3 AMENDMENTS TO TEXT.

Any amendment to the CDO must conform to the goals of the Land Use Plan. Any amendment to the zoning map must be consistent with the future land use map contained in the Land Use Plan and/or the purpose statement for the zoning district.

1.2.4 AMENDMENTS TO LAND USE PLAN.

A. Initiation

1. **Initiation by a Director of a City Department.** The Director of any City department may initiate an amendment to the Land Use Plan at any time.
2. **Initiation by Decision-Making or Review Body.** Any decision-making body may, at any time on their own motion, request that a Director of a City department investigate and evaluate a specific amendment proposal. The Administrator shall submit, within a reasonable time, a report and recommendation to the City Manager for consideration by the City Council regarding whether or not City Council and the Planning & Zoning Commission should review the proposed amendment at this time. Upon receiving the report and recommendation of the Administrator, the City Council shall determine whether or not the proposed amendment should proceed.
3. **Initiation by Applicant for Zoning Map Amendment.** A petition for zoning map amendment in contradiction to the Land Use Plan shall be treated as a petition for amendment to the Land Use Plan as well as an amendment to the Zoning Map, and may be processed as concurrent applications. Final approval for any zoning map amendment in contradiction to the Land Use Plan (and the resultant amendment to the Plan) shall be by City Council.
4. **Schedule.** The City Council may consider updates to the Land Use Plan at any regularly scheduled meeting.

B. Procedure.

1. **Pre-Application Conference, Applications.** The applicant shall meet with the Administrator to discuss the nature of the proposed application, application submittal requirements, the procedure for action, and the standards for filing an application. The application process and filing dates shall follow the same procedure as outlined for zoning amendments in Article 3 of this Ordinance.
2. **Recommendation by the Planning & Zoning Commission.** The Commission shall provide a recommendation to the City Council on each proposed amendment to the Land Use Plan. When a joint Zoning Map Amendment - Land Use Plan Amendment is requested, the process shall be in accordance with Section 1.2.4.A.3.
3. **Public Hearings and Public Notice.** For those applications for amendment to the Land Use Plan that are not concurrent with a zoning amendment, the City Council shall hold a hearing in no more than 60 days from the date the Planning & Zoning Commission adopts its recommendation(s) on the Comprehensive Land Use Plan amendment. Comments by the Planning & Zoning Commission that a proposed

amendment is inconsistent with the Land Use Plan shall not preclude the City Council from considering or approving any proposed amendment. Notice of the hearings shall be provided and the hearings shall be conducted in accordance with general provisions of Section 1.6.

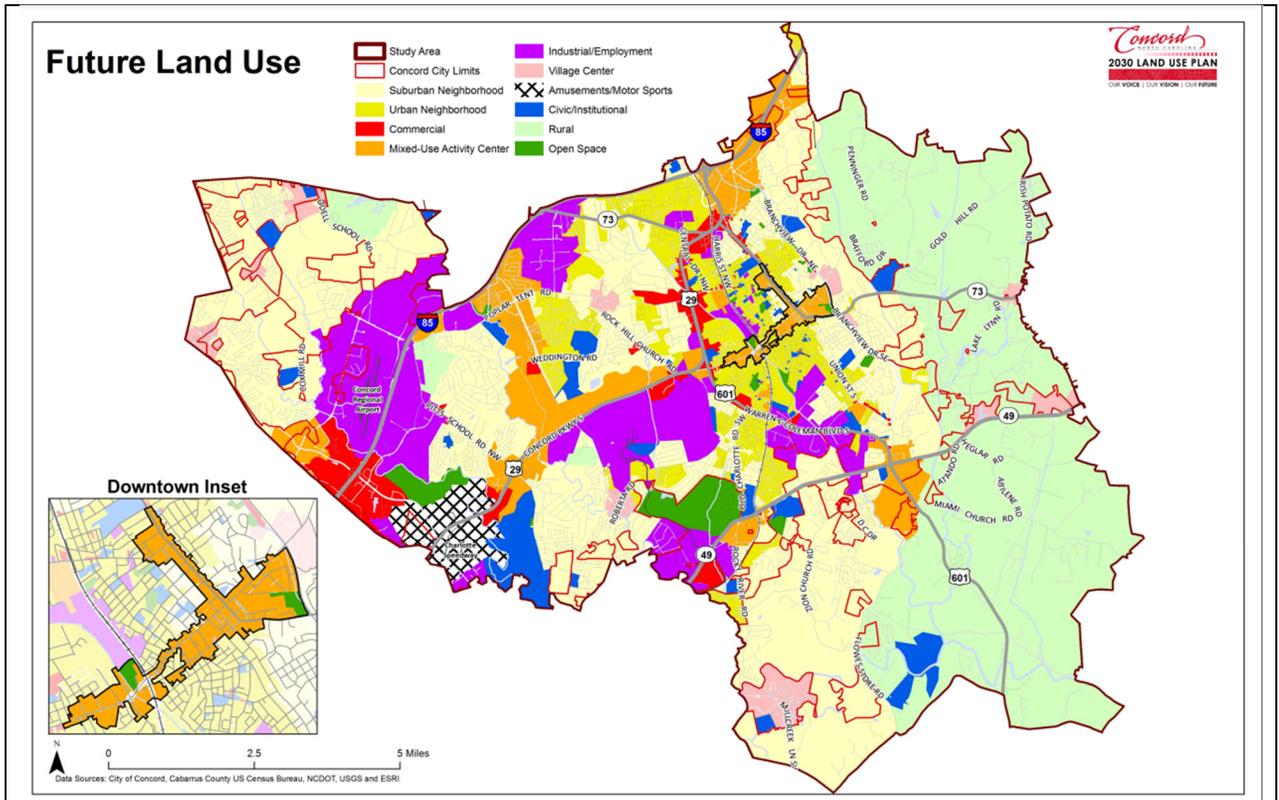
4. **Approval by Simple Majority.** A plan amendment approval may be approved by a simple majority of the City Council.
5. **Standards of Review.** Proposals to amend the Land Use Plan shall be evaluated based upon whether the amendment is necessary in order to address conditions, including, but not limited to the following:
 - A. A correction to the Land Use Plan due to an inconsistency with the underlying zoning;
 - B. A boundary change of a particular land use resulting from a small area plan study or district plan;
 - C. A correction to the Land Use Map that matches the parcel boundary for a particular use;
 - D. A change in projections or assumptions from those on which the Land Use Plan is based;
 - E. Identification of new issues, needs, or opportunities that are not adequately addressed in the Land Use Plan;
 - F. A change in the policies, objectives, principles, or standards governing the physical development of the City or any other geographic areas addressed by the Land Use Plan; or
 - G. Identification of errors or omissions in the Land Use Plan.

The cumulative impact of recent Land Use Plan or zoning map amendments shall expressly be considered by the Planning & Zoning Commission during review of any proposed plan amendment.

1.2.5 REGULAR REVIEW OF THE LAND USE PLAN

- A. The Land Use Plan shall be reviewed and reassessed regularly in order to evaluate its effectiveness and adequacy in guiding City growth and to determine whether or not the Plan continues to meet the long-term planning needs of the City. The Planning and Neighborhood Development Director shall initiate this review, assisted as necessary by the directors of other City departments. As part of this review, the Director shall provide the Planning and Zoning Commission with an overall assessment of the adequacy and effectiveness of the existing Plan, including identification of new issues not adequately addressed by the Plan, issues which require further study and investigation, and suggested improvements. The Planning and Zoning Commission shall consider the staff assessment and shall recommend Plan amendments or issues that the Commission feels should be pursued or investigated. The Commission shall then forward its recommendations, if any, along with the staff report, to the City Council for consideration.
- B. The City Council shall consider the recommendations of the Planning and Zoning Commission and the staff report and shall determine whether issues exist that merit further investigation or an amendment to the Plan. The

Director shall then initiate the investigation of any issues or amendments as requested by Council. Any amendments shall be initiated in accordance with the provisions of Section 1.2.4



1.3

INTERPRETATION OF THE PROVISIONS OF THIS ORDINANCE

1.3.1 INTERPRETATION AND APPLICATION OF PROVISIONS.

The provisions of this Ordinance are the basic and minimum requirements for the protection of public health, safety, and welfare. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control. The meaning of any and all words, terms or phrases in this Ordinance may be found in Article 14; and if not defined therein shall have the ordinary meaning found in any modern dictionary.

1.3.2 TEXT CONTROLS OVER GRAPHICS.

This Ordinance contains numerous graphics, pictures, illustrations, and drawings. However, text of this Ordinance shall control unless otherwise provided in the specific section.

1.3.3 APPEAL.

An appeal of a decision of the Administrator shall be to the Board of Adjustment in accordance with Section 2.1.3 of this Ordinance. Appeals shall be brought within thirty days of mailing or hand delivery of the Administrator's written decision to the party requesting the interpretation. Interpretations shall be mailed by registered or certified mail or delivered in person to the interested parties.

1.4 EFFECTIVE DATE

1.4.1 SCOPE.

This Ordinance shall become enforceable and shall take effect when it is codified, filed and indexed in accordance with NCGS §§ 160D-601. Unless clearly subordinated to another ordinance, regulation, resolution, or express policy, this Zoning Ordinance shall, on the effective date, prevail over any such conflicting or inconsistent ordinance, regulation, resolution, or express policy to the extent necessary to give this Zoning Ordinance full force and effect. The prior City of Concord Zoning Ordinance and Subdivision Regulations are hereby repealed except to the extent whereby continuing activities or violations regulated by previous ordinances are being administered. As set forth in Section 13.2, the provisions of this CDO shall not apply to a validly approved and currently effective site specific development plan.

1.5 VIOLATIONS OF THIS ORDINANCE

1.5.1 APPLICABILITY.

- A. Unless otherwise specified in other sections of this Ordinance, this Section shall set forth penalties and remedies for violations of this Ordinance.
- B. An appeal of a violation or decision of the Administrator, shall be to the Board of Adjustment in accordance with Sections 2.2 and 6.3 of this Ordinance.

1.5.2. TYPES OF VIOLATIONS.

Any of the following shall be a violation of this Ordinance and subject to the remedies and penalties provided for in this Ordinance:

- A. To place any use, structure, or sign upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.
- B. It is a Class I misdemeanor to subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of an unapproved plat. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The City may bring an action for injunction of:
 - 1. Any illegal subdivision
 - 2. Transfer of land
 - 3. Conveyance of land
 - 4. Sale of land
- C. To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign or other regulation of this Ordinance. This section is not intended to address legal nonconforming uses or structures. Article 13 of this Ordinance shall regulate expansions or other alterations to legal nonconforming uses or structures.
- D. To engage in any subdividing, development, construction, remodeling or other activity of any nature upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.
- E. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.

- F. To violate, by act or omission, any term, condition, or qualification placed by a decision-making body upon any permit or other form of authorization.
- G. To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Ordinance.
- H. To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Ordinance.
- I. To remove, deface, obscure or otherwise interfere with any notice required by this Ordinance.
- J. To fail to remove any sign or other improvement installed, created, erected, or maintained in violation of this Ordinance, or for which the permit, approval, permission, or other authorization has lapsed. This section is not intended to address legal nonconforming uses or structures. Article 13 of this Ordinance shall regulate expansions or other alterations to legal nonconforming uses or structures.
- K. To otherwise undertake any development or to establish any use in a manner which does not comply with this Ordinance.

1.5.3. CONTINUING VIOLATIONS.

- A. Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance. A violation of any section of this Ordinance is one violation. A separate fine may be assessed for each section violated.
- B. Any violation of the zoning, subdivision, flood prevention, sedimentation, and erosion control ordinances in effect prior to the adoption of this Ordinance shall continue to be a violation under this Ordinance, and is subject to penalties and enforcement under this Section 1.5, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.
- C. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.

1.5.4. CIVIL REMEDIES AND ENFORCEMENT POWERS.

Failure to comply with any provision of this Ordinance is hereby declared unlawful. The following remedies and enforcement powers may be used by administer to enforce this Ordinance:

- A. **Withhold Permit.** The administrator may withhold all permits or approvals if there is:

1. A repeat violation of this Ordinance as set forth in Section 1.5.5.2; or
 2. There is a condition or qualification of approval granted by the Planning and Zoning Commission, the Board of Adjustment, the Historic Preservation Commission or the City Council that has not been met.
 3. The Administrator may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed or otherwise caused an uncorrected repeat violation of this Ordinance. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.
- B. Revoke Permits.** Any Development Permit or other form of authorization required under this Ordinance may be revoked for any reason set forth in § 1.5.2 and in NCGS § 160D-403(f) et seq. Permit revocation or any other form of revoking development approval shall be the responsibility of the issuing party or commission/board and shall follow the same process as was used for approval. The revocation hearing (if required) shall be conducted in accordance with Sections 6.2 and 6.3 of this Ordinance.
- C. Stop Work.** With or without revoking permits, the Administrator or Code Enforcement Officers may stop work on any land or structure on any land on which there is an uncorrected violation of a provision of this Ordinance or of a permit or other form of authorization issued hereunder, in accordance with the power to stop work pursuant to NCGS § 160D-404(b) et seq. The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefore, and the conditions under which the work may be resumed.
- D. Revoke Plan or Other Approval.** Where a violation of this Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Administrator may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan approval pursuant to G.S. 160D-403(f). If the plan was issued or approved at a public hearing, the Administrator shall schedule the hearing for revocation for the next available public hearing of the appropriate commission/board. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- E. Injunction and Abatement.** This CDO may be enforced by any means or any remedy provided for in NCGS § 160D-404(c). An action for injunction of any illegal subdivision, transfer, conveyance, or sale of land may be prosecuted by the Administrator or designee pursuant to NCGS § 160D-807.
- F. Other Remedies.** The Administrator, City Council, Planning and Zoning Commission and the Board of Adjustment shall have such other remedies as are, and as may be from time to time, provided by North Carolina law for the violation of zoning, subdivision, sign or related Ordinance provisions included but not limited to civil penalties, fines, court ordered actions, and criminal prosecution.

1.5.5. PENALTIES FOR VIOLATION.

- A. **First Offense.** Any violation occurring once within a 36-month period shall be considered a first offense. A notice of violation shall be issued by the Code Enforcement Unit of the Police Dept. and shall provide for a seven (7) day warning period. Upon the expiration of the seven (7) day warning period, the violator shall be subject to a civil penalty of \$100.00 for each day for each violation that the violation remains on the property. Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance. Should a violation continue to exist by the twenty-first (21st) day of the original notification, the City shall seek to 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. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Section 1.5.4.
- B. **Repeat Offense.** Any violation of reoccurring on the same property by the same violator more than once within a 36-month period shall be considered a repeat offense provided the reoccurrence is a violation of the same Article of this Ordinance. A notice of violation shall be issued by the Code Enforcement Officers and shall have an immediate civil penalty of \$300.00. Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance, therefore each day the repeat violation remains, the violator shall be subject to a civil penalty of \$300.00. Should a violation continue to exist by the seventh (7th) day of the original notification, the City shall seek to 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. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Section 1.5.4.
- C. **Notices of Violation.** Notices of Violation (NOVs) shall be issued in conformance with statutory procedures and will be delivered to the permittee and landowner if different; may be delivered to the property occupant or person undertaking the activity; shall be delivered by hand, email, or first-class mail; and may be posted onsite. The Administrator shall certify the NOV and place in the case file.

1.5.6. OTHER POWERS.

In addition to the enforcement powers specified in this Section, the City Council may exercise any and all enforcement powers granted by North Carolina law.

1.5.7. REMEDIES CUMULATIVE.

The remedies and enforcement powers established in this Article shall be cumulative, and the City may exercise them in any order.

1.5.8 ENFORCEMENT PROCEDURES.

- A. Non-Emergency Matters.** In the case of violations of this Ordinance that do not constitute an emergency or require immediate attention, the Code Enforcement Officers shall give notice of the nature of the violation to the property owner or any applicant for any relevant permit in the manner hereafter stated as prescribed in Sections 1.5.5.C. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the City that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123, 160D-1206, or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to G.S. 160D-405.
- B. Emergency Matters.** In the case of violations of this Ordinance that constitute an emergency situation resulting in an immediate threat to the health, or safety of the public, or violations that will create increased problems or costs to the public for the provision of City services if not remedied immediately, the Code Enforcement Officers may use the enforcement powers available under this Article without prior notice, but the Code Enforcement Officer(s) shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who can be contacted and has an identifiable relationship to the violation and/or owner.

1.6 GENERAL PROCEDURAL REQUIREMENTS

The City shall provide notice for all zoning map amendments, special use permits, and Historic Preservation and Board of Adjustment items as set forth in NCGS § 160D-601 and 602 et seq., consisting of at least first-class mailed notice to immediate neighbors, properties separated from the subject property by street, railroad, or other transportation corridor, and other parties that have expressed an interest in the project, and a notice prominently posted on the site, or expanded public notice in the event that the zoning comprises more than 50 properties owned by at least 50 different property owners. Posted notice shall be given from twenty-five (25) days prior to the hearing until ten (10) days prior to the hearing.

In accordance with NCGS § 160D-406(b) an evidentiary hearing can be continued without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened. If quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no additional notice required.

ARTICLE 2

ADMINISTRATIVE AGENCIES

SUMMARY

This Article describes the various agencies involved in administration of the CDO. The jurisdiction, powers, and duties of each agency are described. These agencies include: the Planning and Neighborhood Development Department and Administrator, the Board of Adjustment, the Planning and Zoning Commission, the City Council, the Historic Preservation Commission, and the City staff, acting as the Development Review Committee.

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2.1. PLANNING AND NEIGHBORHOOD DEVELOPMENT DEPARTMENT AND ADMINISTRATOR

2.1.1. ESTABLISHMENT OF PLANNING AND NEIGHBORHOOD DEVELOPMENT DEPARTMENT

Pursuant to NCGS § 160D-301, the City hereby establishes the Planning and Neighborhood Development Department of the City. The Planning and Neighborhood Development Department shall perform the planning review functions for the City and shall provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. The Planning and Neighborhood Development Department shall perform other functions as may be requested by the City Council or authorized by this Ordinance.

2.1.2. ESTABLISHMENT OF ADMINISTRATOR

The City hereby authorizes the Planning and Neighborhood Development Director to function as the administrator of this Ordinance (the "Administrator"). The Administrator is charged with the authority and the duty to enforce this Ordinance. The Administrator is authorized to establish and delegate when appropriate Department standards of operation and procedures consistent with the intent of this Ordinance. The Administrator or his delegee may also consult with other officials, boards or agencies with needed technical expertise (such as the Director of Engineering or the Fire Chief). "Administrator" shall include staff authorized by the Administrator.

2.1.3. APPEALS FROM THE DECISION OF THE ADMINISTRATOR

Appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with Sections 2.2 and 6.3.

2.1.4. INSPECTION

Pursuant to NCGS § 160D-402 et seq., the Administrator and the Code Enforcement Officers are hereby designated the Zoning and Subdivision Inspectors for the City. The Inspectors are empowered to enter or inspect any building, structure, premises, or real property in the City upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Ordinance including but not limited to compliance with building permits. Such inspections shall be carried out during business hours and upon presenting credentials unless the Administrator or Inspectors determine that an emergency exists. Entry onto private property for the purpose of inspection shall be made only after securing permission from the owner. Application for any development approval shall constitute permission to inspect a property.

Failing permission, no inspection shall be undertaken without an order from a court of competent jurisdiction.

2.1.5. ENFORCEMENT

The Administrator may hereby commence an action to enforce the provisions of this Ordinance pursuant to NCGS § 160D-404(c), and Section 1.5 of this Ordinance.

2.2. BOARD OF ADJUSTMENT

2.2.1. ESTABLISHMENT

Pursuant to NCGS § 160D-1-9(d) et seq., there is hereby established the Board of Adjustment of the City of Concord.

2.2.2. POWERS AND DUTIES

A. Pursuant to NCGS § 160D-1-9(d) et seq., the Board of Adjustment shall have the following powers, duties and authority:

1. to hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (NCGS § 160D-1-9(d) et seq.);
2. to hear and decide on applications for variances from the terms of the zoning ordinance pursuant to Section 2.2 of this Ordinance and NCGS § 160D-1-9(d) et seq. The Board shall have the authority to place conditions, including time limits, on variances;
3. to exercise such other powers as may be granted by this Ordinance.

B. Quasi-judicial Procedures

The consideration of any appeal, variance or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in Sections 6.2 and 6.3 of this Ordinance and NCGS § 160D-102.

1. Any quasi-judicial matter pertaining to property in the extra-territorial jurisdiction of the City shall only be considered by the Commission with the extra-territorial jurisdiction member present.
2. The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes. All Board of Adjustment rules and procedures will be maintained by the clerk or other appointed official and an up-to-date version of the rules and procedures will be posted to the City's website.

C. Limitations of Board

The Board of Adjustment shall not have power, jurisdiction, or authority to perform any of the following actions:

1. make any changes in permitted uses on any zoning classification or zoning district; or
2. grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

2.2.3. MEMBERSHIP

- A. The City Council shall solicit applications for, review applications for, and appoint seven (7) persons to the Board of Adjustment as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas based on a frequently updated ETJ population estimate, as provided in NCGS § 160D-307. (The Cabarrus County Board of Commissioners shall appoint one representative from the extraterritorial jurisdiction as required by NCGS § 160D-307.) The City Council shall appoint two (2) alternate members to serve on the Board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving in the temporary absence of any regular member, shall have and may exercise all the powers and duties of a regular member.
- B. All members shall serve a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- C. The City Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.
- D. If any member of the Board of Adjustment shall fail to attend three consecutive (3) regular meetings of the commission within any three-month period, it will be sufficient grounds for termination of the member's appointment. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- E. Upon a vacancy in the regular membership, City Council may first consider appointing the "senior" alternate member to the vacancy. City Council may appoint any qualified person to a vacancy.
- F. The Board of Adjustment shall adopt and publish to the City's website rules of procedure for the conduct of its business.

- G. At an annual organizational meeting, the members of the Board shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting.

2.2.4. MEETINGS, HEARINGS AND PROCEDURES

- A. The Board shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Board, a majority of the members of the Commission, or the Administrator.
- B. If a matter is postponed due to lack of a quorum, the chair of the Commission shall continue the meeting to the next commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.
- C. No meeting of the Commission may be called to order, nor may any business be transacted by the commission, without a quorum consisting of a majority of the appointed membership of the commission. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All Commission actions shall require the concurring vote of a majority of the members of the Commission.

2.2.5. RECORDING SECRETARY

The Administrator shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board of Adjustment voting. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Board as a public record. The Development Services Department is hereby designated as the office of the Board for purposes of this subsection. In addition, the secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board of Adjustment.

2.2.6. STAFF

The Administrator shall be the professional staff of the Board of Adjustment.

2.3. PLANNING AND ZONING COMMISSION

2.3.1. ESTABLISHMENT

Pursuant to NCGS § 160D-301, there is hereby established a planning agency known as the Planning and Zoning Commission of the City of Concord.

2.3.2. POWERS AND DUTIES

The Commission shall provide an advisory function to assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval. The Commission shall have the following powers and duties to:

- A. exercise any of the powers and/or duties assigned pursuant to NCGS §§ 160D-301 and 160D-107 et seq. including, but not limited to, the preparation of a comprehensive plan;
- B. prepare amendments to the plan and its elements and to submit the amendments to the City Council;
- C. initiate, hear, review, make recommendations to the City Council on applications for amendments to the text of this Ordinance;
- D. initiate, hear, review, make recommendations to the City Council, and/or make final decisions on applications for amendments to the Official Zoning Map. As prescribed in Section 3.2 of this Ordinance, the Commission shall render a final decision (subject to appeal) on applications for amendments to the Official Zoning Map (including those with concurrent amendments to the Land Use Plan) with a super-majority vote of at least three-fourths of the Commission;
- E. adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Commission. All bylaws, policies, procedures, and regulations shall be consistent with this Ordinance and shall be approved by the City Council before taking effect. Upon City Council approval, the clerk or appointed official will maintain a record of all adopted bylaws, policies, procedures, and regulations and post the record to the City's website; and
- F. review and consider issuing special use permits.

2.3.3. MEMBERSHIP

The City Council shall solicit applications for, review applications for, and appoint seven (7) persons to the Planning and Zoning Commission as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160D-307. (The Cabarrus County Board of Commissioners shall appoint one representative from the extraterritorial jurisdiction as required by NCGS § 160D-307.) The City Council shall appoint two (2) alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

- A. All members shall serve a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- B. The City Council may remove any member of the Planning and Zoning Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing if requested.
- C. If any member of the commission shall fail to attend three (3) regular meetings of the commission within any consecutive three-month period, the chair or the vice-chair shall immediately file a notification of such nonattendance with the City Council for placement on the Council agenda. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- D. Upon a vacancy in the regular membership, City Council may first consider appointing the “senior” alternate member to the vacancy. City Council may appoint any qualified person to a vacancy.
- E. The Planning and Zoning Commission shall adopt and publish to the City’s website rules of procedure for the conduct of its business.
- F. At an annual organizational meeting, the members of the Commission shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting.

2.3.4. MEETINGS, HEARINGS AND PROCEDURES

- A. The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Commission, a majority of the members of the Commission, or the Administrator.
- B. If a matter is postponed due to lack of a quorum, the chair of the Commission shall continue the meeting to the next commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.
- C. No meeting of the Commission may be called to order, nor may any business be transacted by the commission, without a quorum consisting of a majority of the appointed membership of the commission. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All Commission actions shall require the concurring vote of a majority of the members of the Commission.

2.3.5 RECORDING SECRETARY

The Administrator shall appoint a recording secretary to serve the Commission. The secretary shall keep minutes to summarize all proceedings, attested to by a majority of the members of the commission voting. Minutes of the proceedings of the Commission showing the vote of each member and record of its examinations and other officials' actions shall be filed in the office of the Commission as a public record. The Planning and Neighborhood Development Department is hereby designated as the office of the Commission for purposes of this subsection. In addition, the secretary shall maintain all records of commission meetings, hearings and proceedings, as well as the correspondence of the Commission.

2.3.6 STAFF

The Administrator shall serve as the professional staff of the Commission.

2.4. CITY COUNCIL

2.4.1. POWERS AND DUTIES

The City Council shall render final decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, except where authority for a final decision is delegated to another agency by this Ordinance. The City Council shall render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance. The City Council shall have the following powers and duties to:

- A. initiate, adopt, and amend a Comprehensive Plan;
- B. initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;
- C. review recommendations of the Planning and Zoning Commission, and make final decisions on applications for amendments to the text of this Ordinance;
- D. accept or decline offers of dedication or performance guarantees of infrastructure or real property. Offers of dedication are typically made in the course of developing subdivisions, but may be made in the course of other kinds of development, such as planned unit developments;
- E. hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning and Zoning Commission has been submitted pursuant to NCGS § 160D-604. In accordance with Section 3.2 of this Ordinance, such amendments shall only be heard by City Council if:
 1. the amendment was denied by Planning and Zoning Commission;
 2. the amendment was approved, but the affirmative votes represented less than three-fourths of the Commission;
 3. a decision of the Planning and Zoning Commission has been made pursuant to Section 3.3 of this Ordinance and an appeal has been filed;
 4. subsequent to the initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning and Zoning Commission for review and comment. If no written report is received from the Commission within thirty days of

5. referral of the amendment to the Commission, the City Council may proceed in its consideration of the amendment without the Commission's report. The City Council is not bound by the recommendations, if any, of the Planning and Zoning Commission; and
- G. take such other action not otherwise delegated, as the City Council may deem desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

2.5. HISTORIC PRESERVATION COMMISSION

2.5.1. ESTABLISHMENT

Pursuant to NCGS § 160D-303 et seq., there is hereby established the Concord Historic Preservation Commission, hereafter referred to as the Historic Preservation Commission or Commission, to consist of seven (7) regular members and two (2) alternate members appointed by the City Council of the City of Concord. The City Council shall establish the Commission's compensation, if any.

2.5.2. POWERS AND DUTIES

The Commission shall seek to promote, enhance and preserve the character of the districts. The Historic Preservation Commission is authorized and empowered to undertake reasonable actions to discharge and conduct its duties and responsibilities as outlined in this Ordinance and Part 4, Article 9 of Chapter 160D of the NCGS including, but not limited to, the following:

- A. Recommend to the Planning and Zoning Commission areas to be designated by ordinance as "historic districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "landmarks".
- B. Recommend to the City Council that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.
- C. Review and act upon (grant or deny) applications for Certificate of Appropriateness requests for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks in accordance with Section 9.8. of this Ordinance.
- D. Give advice to property owners concerning the treatment of the historical and visual characteristics of properties located within the districts, such as color schemes, gardens and landscaping features, and minor decorative elements.
- E. Propose to the City Council changes to this or any related ordinance; propose new ordinances or laws relating to the historic districts, historic landmarks, or the development of the historical resources of the City of Concord and its environs.

- F. Cooperate with other City of Concord boards or commissions or with agencies of the City or other governmental units; offer or request assistance, aid, guidance, or advice concerning matters under its purview.
- G. Publish information about, or otherwise inform the owners of property within the districts of any pertinent matters. Such information may be in the form of standards, handbooks, pamphlets, brochures, etc.
- H. Conduct an educational program with respect to historic districts and landmarks within its jurisdiction.
- I. Undertake programs of information, research, or analysis relating to any matters under its purview.
- J. Report violations of this ordinance or related ordinances to the Planning and Neighborhood Development Director responsible for enforcement.
- K. Assist City staff in obtaining the services of private consultants to aid in carrying out programs for research or analysis.
- L. To secure appropriate rights of public access and promote the preservation of the property.
- M. Accept funds granted to the Commission from private or nonprofit organizations.
- N. Contract, with the approval of the City Council, for services or funds from the State of North Carolina and agencies or departments of the United States government.
- O. Recommend to the City Council and the State of North Carolina structures, sites, objects, or districts worthy of national, state or local recognition.
- P. Establish standards under which the Planning and Neighborhood Development Director or his designee may approve minor modifications on behalf of the Commission. No application shall be denied without first being considered by the Commission.
- Q. Conduct public hearings on applications for Certificates of Appropriateness where the Commission deems that such a hearing is necessary.
- R. Organize itself and conduct its business by whatever legal means it deems proper.

- S. Exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, the General Statutes of North Carolina, or by the City Council.

2.5.3. MEMBERSHIP

- A. The City Council shall solicit applications for, review applications for, and appoint seven (7) persons to the Historic Preservation Commission as provided in this Ordinance. If any districts or landmarks are designated within the Extraterritorial Jurisdiction (ETJ), proportional representation for the ETJ will be included on the Commission. The membership shall include territorial representation and a majority of the members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The City Council shall appoint two (2) alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.
- B. All members shall serve a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- C. The City Council may remove any member of the Historic Preservation Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.
- D. If any member of the Historic Preservation Commission shall fail to attend three (3) consecutive regular meetings of the commission within any three-month period, it will be sufficient grounds for termination of the member's appointment. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- E. Upon a vacancy in the regular membership, City Council may first consider appointing the "senior" alternate member to the vacancy. City Council may appoint any qualified person to a vacancy.
- F. The Historic Preservation Commission shall adopt and publish on the City's website rules of procedure for the conduct of its business. All adopted rules of procedure shall be maintained by the clerk or appointed official.

- G. At an annual organizational meeting, the members of the Commission shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting.

2.5.4. MEETINGS, HEARINGS, AND PROCEDURES

- A. The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Commission, a majority of the members of the Commission, or the Administrator.
- B. If a matter is postponed due to a lack of a quorum, the chair of the Commission shall continue the meeting to the next commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.
- C. No meeting of the Commission may be called to order, nor may any business be transacted by the commission, without a quorum consisting of a majority of the appointed membership of the commission. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All Commission actions shall require the concurring vote of a majority of the members of the Commission.

2.5.5. RECORDING SECRETARY

The administrator shall appoint a recording secretary to serve the Historic Preservation Commission. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Historic Preservation Commission voting. Minutes of the proceedings of the Commission showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Commission as the public record. The Planning and Neighborhood Development Department is hereby designated as the office of the Commission for purposes of this Subsection. In addition, the secretary shall maintain all records of the Commission meetings, hearings and proceedings, as well as the correspondence of the Commission.

2.5.6. STAFF

The administrator shall be the professional staff of the Historic Preservation Commission.

2.6. CITY STAFF - DEVELOPMENT REVIEW COMMITTEE

2.6.1. ESTABLISHMENT

The City Manager shall appoint a committee of staff members consisting of department heads who have particular expertise in the development of real property as the Development Review Committee (DRC). The Committee shall be chaired by the Planning and Neighborhood Development Director. At a minimum, the DRC members shall consist of the Director of Engineering, the Fire Chief, the Director of Transportation and the Director of Water Resources (or their designees). Other departments that shall serve on the committee on an ad hoc basis, depending on the nature, size and complexity of the development project to be reviewed include, but are not limited to: Parks and Recreation, Electric Systems, Solid Waste, Legal, Transit, and Police.

2.6.3. REVIEW OF OTHER DEVELOPMENT PLANS

The DRC shall meet periodically to review and comment on all plans to be reviewed and/or approved by any other body listed in this Article, including the City Council, Planning and Zoning Commission, Board of Adjustment, and Historic Preservation Commission and all request for permits, for conformity with the City Code and with City Council resolutions.

- A.** The DRC shall develop rules of procedure and schedules to ensure that plans submitted shall be reviewed and comments returned to developers in a timely manner. These rules of procedure shall be maintained by the clerk or other appointed official and be posted to the City's website.
- B.** The DRC shall develop unified comments and the Chair shall submit one written set of comments to each applicant.
- C.** The DRC shall keep written records of any action taken, or comments made.

ARTICLE 3

ZONING AMENDMENTS AND HEARING PROCEDURES

SUMMARY/PURPOSE

This Article describes how to obtain a zoning amendment (either to the official zoning map or to the text) under the Concord Development Ordinance. Typically, this process involves either three or four steps:

- A. First, an application is submitted to the Administrator.*
- B. Second, the Administrator determines whether the application is complete.*
- C. Third, the application is forwarded to the Planning and Zoning Commission for a public hearing. Depending on the whether the item is an amendment to the text or to the map, Council hearing may be required.*
- D. Fourth, a public hearing is held by the City Council and the amendment is either approved or denied.*

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3.1. PURPOSE AND AUTHORITY

The purpose of this Chapter is to outline the process for amending the classification of the official zoning map, the text of the ordinance and to outline the various processes for the City Council and for the Planning and Zoning Commission.

The City Council shall have the authority to amend or repeal the text of these regulations and the zoning classification of any parcel of land as indicated on the Official Zoning Map of the City of Concord.

3.2 CHANGES TO THE OFFICIAL ZONING MAP

Changes to the zoning map (rezonings) occur through a public hearing conducted by either the Planning Commission, City Council, or in some instances, both.

3.2.1 PRE-APPLICATION MEETING

Prior to filing a petition for a zoning amendment, the petitioner shall meet with the Planning Department staff to discuss the proposed amendment. The staff shall provide the petitioner with the proper application forms. The purpose of this meeting is to advise the petitioner of the zoning amendment process, notice issues (including neighborhood meeting requirement) and other concerns and information relative to the amendment of the zoning.

3.2.2 FILING OF PETITION

A zoning amendment petition shall be on a form prescribed by the Planning Department and shall be accompanied by the fee established in the most recent budget ordinance adopted by the City Council. The Administrator shall establish schedules to file any application for development approval that requires action by the Planning and Zoning Commission, the Board of Adjustment or the City Council. Such applications shall be filed according to the established schedules in advance of any public hearing or public meeting required pursuant to this Ordinance or the N.C. General Statutes.

Applications for conditional district rezoning (Section 3.2.9) shall be initiated only by petition signed by the property owner, a person with property interest, or a contract to purchase the property.

For conditional district zoning amendment requests, after receipt of the petition, the staff shall forward the petition including the site plan to the Development Review Committee (DRC) for review and comments prior to the hearing. The site plan and supporting materials shall be in final approval form at least fifteen (15) days prior to the date of hearing in order to allow the staff adequate time to prepare a report for the Commission. At this time, the DRC shall concur that the site plan sufficiently meets minimum requirements prior to the item proceeding to the Planning Commission for public hearing.

A staff report, summarizing the petition, shall be prepared and posted to the City's website when complete.

3.2.3 NOTICE REQUIREMENTS

Notice shall be given in accordance with Section 1.6 of this Ordinance.

3.2.4 FORMALLY RECOGNIZED NEIGHBORHOOD ORGANIZATION NOTICE AND NEIGHBORHOOD MEETING REQUIREMENTS

A. The petitioner shall notify 1) any neighborhood organization formally recognized by the City of Concord and 2) any homeowner’s association identified by the City, whose boundary is located within one-half (1/2) mile of any part of the boundary of the proposed zoning change. Such measurement shall exclude any intervening street or public right-of-way. At the time of filing the petition, the Planning staff shall provide the contact information for the formally recognized neighborhood and shall assist the petitioner in identifying other applicable homeowner’s associations.

The petitioner shall send notice to the organization and/or association by first class mail within ten (10) days of filing the petition and the notice shall include, at a minimum, a summary of the request including the anticipated hearing date, the site plan filed with the rezoning (if applicable) and the contact information for the petitioner. The petitioner shall provide proof of the notice to the Planning staff at least fifteen (15) days prior to the date of the public hearing. Failure to send notice to any homeowner’s association existing within the one-half (1/2) mile distance, but unknown to the City and therefore not identified for notice to the petitioner shall not be considered a violation of this section.

B. The petitioner shall conduct a neighborhood meeting with all adjacent property owners, for all proposed zoning amendments which increase density or intensity. The staff shall inform the petitioners of the neighborhood meeting requirement at the pre-application meeting. In lieu of the meeting, the petitioner may notice all adjacent property owners by letter, delivered by certified mail at least twenty (20) days prior to the hearing date. The letter shall provide an overview of the zoning request and shall include the petitioner’s contact information. Proof of the neighborhood meeting or the notification by certified letter shall be provided to the Planning Department no later than ten (10) days prior to the public hearing. When notice is given by mail, and persons representing ten percent or more of the entities noticed in accordance with 3.2.3 and 1.6 appear at the hearing in opposition to the petition, the Planning and Zoning Commission may table the matter and require the applicant to conduct the neighborhood meeting.

3.2.5 APPROVAL AUTHORITY

A. The Planning and Zoning Commission is hereby delegated by the City Council to have the authority to take final action on applications to rezone property as specified by Session Law 1993, Chapter 247, House Bill 575. The Commission may grant final approval of a zoning map amendment by a vote of at least three-fourths (3/4) of the members of the Commission present and not excused from voting. If the approval is by a vote of less than three-fourths, or if the Commission renders a recommendation of denial, the request shall be forwarded to the City Council for hearing at their next available meeting and

the City Council shall have the authority to make a final decision on the zoning map amendment.

B. Any person aggrieved by the decision of the Planning and Zoning Commission shall have the right to appeal the action to the City Council. The appeal shall be filed by giving notice in writing to the Administrator as designated by the City Manager within fifteen (15) days of the decision of the Planning and Zoning Commission. The City Council shall place the item on the next available City Council agenda.

C. Final Denial of an application for a zoning map amendment shall preclude the petitioner from submitting an identical petition for a zoning map amendment on the same property for a period of one (1) year from the date of final denial of the petition.

D. The decision of the proceeding, including statement of consistency, findings of fact and conclusions of law (if applicable) shall be filed in the Office of the Administrator and recorded at the Cabarrus County Register of Deeds, and a copy shall be provided to the petitioner.

3.2.6 STATEMENT OF CONSISTENCY WITH THE COMPREHENSIVE PLAN

Prior to adopting or rejecting any zoning map amendment the Planning and Zoning Commission shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan (including a land use plan, parks, greenways and bikeways master plan, and long-range transportation plan) and explaining why the Commission considers the action taken to be reasonable and in the public interest. A statement of reasonableness and consistency can be considered and approved as a single, combined statement.

If a written statement of consistency is not formally adopted, the minutes may be used to meet the requirement for plan consistency if the minutes reflect that the board was fully aware of and considered the comprehensive plan when making its decision.

3.2.7 PROTEST PETITIONS

A protest petition, submitted in accordance with GS 160D-102 et seq., may only be filed for consideration by City Council. Protest petitions are not applicable for Planning and Zoning Commission consideration.

3.2.8 REZONING TO A CONVENTIONAL (BASE) ZONING DISTRICT

The provisions of this section shall apply to any application for a zoning map amendment to Agricultural (AG), Rural Estate (RE), Residential Low Density (RL), Residential Medium Density (RM-1 or RM-2), Residential Village (RV),

Residential Compact (RC), Residential-County Originated (R-CO), Office & Institutional (O&I), Neighborhood Commercial (B-1), City Center (CC), Light Commercial (C-1), General Commercial (C-2), Light Industrial (I-1), General Industrial (I-2), as well as zoning districts specifically classified as overlay districts.

Hearings for conventional zoning districts shall be legislative in nature. Sworn testimony and findings of fact for approval or denial are not required. The Commission may not impose conditions on the approval, and the Commission may not consider any condition offered by the applicant.

3.2.9 REZONING TO A CONDITIONAL ZONING DISTRICT

The provisions of this section shall apply to any application for a map amendment to “parallel” conditional district and to other conditional zoning districts as specified in Article 9 of this Ordinance unless those districts contain discretionary standards that may require a quasi-judicial procedure. The conditional zoning process allows particular uses to be established on case-by-case basis on a specific property. Some land uses are of a nature or scale that they have significant impacts on the surrounding property and potentially on the entire community, and these uses cannot be addressed by general district zoning standards. There are also circumstances in which a conventional zoning district designation allowing such a use by right may not be appropriate, even though the use itself, if properly planned, could be appropriate with the property and consistent with the objectives of these regulations and the adopted land use plans and small area plans, if applicable. The review process established herein provides for the accommodation of such uses by a reclassification of property into a “parallel conditional district.”

There are hereby established, in accordance with Section 7.2.3, Parallel Conditional Zoning Districts as follows: Agricultural Conditional District (AG-CD), Rural Estate Conditional District (RE-CD), Residential Low Density Conditional District (RL-CD), Residential Medium Density Conditional District (RM-1-CD or RM-2-CD), Residential Village Conditional District (RV-CD), Residential Compact Conditional District (RC-CD), Office & Institutional Conditional District (O&I-CD), Neighborhood Commercial Conditional District (B-1-CD), City Center Conditional District (CC-CD), Light Commercial Conditional District (C-1-CD), General Commercial Conditional District (C-2-CD), Light Industrial Conditional District (I-1-CD), and General Industrial Conditional District (I-2-CD).

Furthermore, the following zoning districts included in Article 9 are also established as Conditional Zoning Districts: Planned Unit Development (PUD), Planned Residential Development (PRD), Mixed Use (MX), Traditional

Neighborhood Development (TND), Public Interest District (PID) and Low Impact Development (LID).

A. Any use permitted under the conditional zoning process must conform to the corresponding conventional zoning district, or if applicable, to the requirements of Article 9. No use may be permitted that is not permitted within the conventional zoning district, or within the individual requirements specific to the above-referenced zoning districts contained in Article 9.

B. Amendments to conditional zoning districts may be initiated only by petition, and the petition shall be signed by the owners of all of the property within the proposed district.

C. A petition for conditional zoning must include a site plan, drawn to scale, with supporting information and text that specifies the actual use or uses intended for the property and any proposed conditions that will govern development and use of the property. The following information shall be provided, if applicable:

1. A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), location in relationship to major streets, railroads, the date, and a north arrow;
2. All existing easements, reservations and rights-of-way;
3. Areas in which structures are proposed;
4. Proposed use of all land and structures including the number of residential units and square footage of nonresidential development;
5. Proposed and required screening and landscaping as specified in Article 11;
6. Existing and proposed points of access to public streets and to adjacent property;
7. Location of 100 year floodplains and location of proposed stream buffers as specified in Article 4;
8. General parking and circulation plans;
9. Additional data and information as specified in Article 9, if applicable.

D. In the course of evaluating the application, the Administrator, Planning and Zoning Commission or City Council may request additional information from the petitioner. This information may include the following;

1. The exterior features of the proposed development including height and exterior finish;
2. Existing and general topography of the site;
3. Existing vegetation and tree cover; and
4. Location and number of proposed signs.

The site plan and all supporting materials and text shall constitute part of the petition for all purposes under this Chapter.

E. Hearings for conditional zoning districts shall be legislative in nature. Sworn testimony and findings of fact for approval or denial are not required. The Commission or Council may suggest reasonable additional conditions or augment those proposed with the petition, but only those conditions mutually agreed upon by the petitioner and the Commission or Council may be incorporated into the approval. Any such condition should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space and other matters that the Commission or Council may find appropriate. Such conditions to approval of the petition may include dedication to the City or State as appropriate, any right-of-way for streets or other public utilities necessary to serve the proposed development. Other dedications and performance guarantees can be suggested and agreed upon as deemed appropriate by the Commission or Council. All conditions and development approvals should be in writing either in print or in an electronic format that is protected from further editing.

F. If a petition for conditional district zoning is approved, the conditions of approval shall become binding upon the property. Only those uses and structures indicated in the approved petition and site plan may be developed on the site. Furthermore, approval of the zoning amendment shall not authorize development activity on the site and proposed development will be subject to other provisions of this Ordinance and to applicable State and Federal regulations.

G. Approval of a petition for conditional district zoning shall constitute approval of the site plan submitted as part of the petition, in accordance with Section 5.4 of this Ordinance. Amendments to a site plan approved as part of a conditional district zoning plan shall be processed as a new conditional district zoning petition, according to the provisions of this Chapter, except that certain minor administrative amendments may be permissible as detailed in Section 3.2.6. H below.

H. A request for an administrative amendment shall be in the form of a letter, signed by the property owner and addressed to the Administrator (or designee) detailing the requested change. The Administrator may require additional information from the petitioner, and may, if necessary, consult with the Development Review Committee (DRC). The Administrator may approve the change upon finding that the proposed change is substantially similar to the approved plan. Changes that are not considered similar include:

1. Increasing the number of buildings;

2. Increasing the number of dwelling units or the approved density of the project;
3. Addition of access points to a public street;
4. Reducing number of parking spaces, landscaping, buffers or setbacks below minimum standards;
5. Moving proposed structures closer to adjacent residential properties or adjacent residential zoning;
6. Reducing open space; and
7. Increasing the mass or height of buildings.

The administrator shall respond, in writing, to the petitioner, either approving or denying the administrative amendment. The letter to the petitioner shall explain the reasons behind the approval or denial. In the event of denial, the petitioner may appeal the decision to the Zoning Board of Adjustment in accordance with Section 6.3 or may file a new conditional district zoning petition in accordance with this Article.

3.3 ZONING TEXT AMENDMENTS

The purpose of this Section is to establish uniform procedures for processing amendments to the text of this Ordinance.

A. Any person, board, department, or commission may apply for a change in Concord Development Ordinance text.

B. An amendment to the text of this Ordinance may be initiated by filing an application with the Administrator. Before an application is accepted by the Planning Department, the applicant must meet with the Administrator. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for a zoning text request. During this meeting, the Administrator will identify the submittal requirements, and advise the petitioner of the approval process.

C. The Planning Department shall prepare a summary of the proposed amendment and present the proposal to the Planning Commission at the next available meeting. The Commission shall vote to either 1) accept the amendment and to prepare an ordinance for their consideration at the next available meeting, or 2) deny the request and not accept the amendment. If the request is accepted, the petitioner shall pay the application fee, as specified in the most recent budget ordinance approved by the City Council. In the event that the application fee is not paid, the amendment shall not be scheduled for consideration by the Commission.

D. The Commission shall hold a public hearing on the proposed ordinance at their next available meeting. Upon an affirmative majority vote by the Commission, the amendment shall be forwarded to the City Council for a public hearing at their next available meeting. The City Council shall approve or deny the zoning text amendment by a majority vote. In the event that the request is denied, the Commission shall not hear another application for the same amendment within one year of the original consideration unless there is new and different evidence that was not reasonably available at the time of the original consideration.

E. In the event that the Commission votes to either not accept the amendment, or to not approve the prepared amendment, any person aggrieved by the decision shall have the right to appeal the action to the City Council. The appeal shall be filed by giving notice in writing to the Administrator within fifteen (15) days of the decision of the Planning and Zoning Commission. The City Council shall place the item on the next available City Council agenda.

F. High priority amendments to the text initiated by the staff, Planning Commission or City Council shall not be subject to the procedures detailed above, but shall be considered by City Council at the next available opportunity for hearing.

3.4 LEGISLATIVE HEARING PROCEDURES

A. The purpose of a legislative or advisory review public hearing is to provide the public an opportunity to be heard. Unlike quasi-judicial hearings, a legislative proceeding does not require due process protections, such as right of the parties to offer evidence, sworn testimony, or findings of fact. Like quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Public hearings are required for legislative review hearings, such as amendments to the Comprehensive Plan, amendments to this Ordinance (including amendments to the text and most zoning map amendments)

B. Notice of hearing shall be provided in accordance with Section 1.6 of this Ordinance.

C. The body conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with NCGS Chapter 132 Article 33C. The Administrator will provide the record upon request and payment of any fee applicable to production as set forth in the fee schedule adopted as part of the City's annual budget.

ARTICLE 4 ENVIRONMENTAL/LAND-DISTURBING ACTIVITIES

Summary: This article regulates land-disturbing activities. All properties are subject to the requirements of Sec. 4-4, 4-5, and 4-6. The requirements in Sec. 4-2, 4-3, and 4-7 are location-dependent and most relevant for properties adjacent to or in close proximity to waterbodies. Property near waterbodies may be subject to water supply source watershed protection, waterbody protection, and floodplain life and property protection requirements.

The first two sections after the Purpose focus on the protection of water quality. Sec. 4-2 regulates land uses and densities in the proximity of drinking water reservoirs to protect them from pollution. Sec. 4-3 establishes undisturbed buffers and vegetative setbacks to protect surface waters from soil erosion and pollutants.

The next two sections focus on minimizing negative impacts from stormwater. Sec. 4-4 mandates engineered stormwater controls to minimize the qualitative and quantitative impacts of runoff and ensure compliance with federal point source discharge requirements. These requirements are based on the permit conditions in NPDES Permit No. NCS000423 (the City’s Phase II stormwater permit). The phase II provisions became effective upon the adoption of an ordinance amendment on January 12, 2006. Sec. 4-5 mandates the control of sedimentation and erosion; however, the sedimentation and erosion control regulatory program is administered by the State of North Carolina.

The next two sections focus on the protection of life and property. Sec. 4-6 regulates grading to protect existing vegetation and utilities. Sec. 4-7 regulates land uses to minimize loss of life and property due to flood conditions. Previously, these requirements were located in CDO Section 4.14 (Floodplain Protection Overlay District).

Areas regulated by Section 4-2, 4-3, and 4-7 are located in overlay districts. These districts are established and boundaries are interpreted in accordance with Article 7: Zoning Districts and Dimensional Regulations.

Submittal requirements and process information for permits and plans required by this article are provided in Article 6: Permits and Approval Processes.

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4.1. PURPOSE

Alterations to the natural contour and vegetation of land can negatively impact the environment, property, and people in the immediate vicinity of the land disturbance and the environment, property, and people living beyond the immediate vicinity of the land disturbance. The purpose of this article regulating land-disturbing activities is to:

1. Protect water supply sources from pollution in accordance with the Water Supply Watershed Protection Act (NCGS §§ 143-214.5 and 143-214.6) and to protect surface water quality as required by the U.S. Clean Water Act, and NPDES Permit, commonly known as the “Phase II Permit”,
2. Minimize soil erosion and pollutants entering waterways in accordance with the Federal Clean Water Act (33 USC §1251 et seq.) and abide by the permit conditions imposed on Cabarrus County by the U.S. Army Corps of Engineers for the filling and operation of Lake Don T. Howell,
3. Control and minimize the negative impacts of stormwater runoff regardless of a development’s proximity to waterways in accordance with the National Pollutant Discharge Elimination System - Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges (40 CFR Parts 9, 122, 123, and 124),
4. Protect property and waterways from damage created by sedimentation and erosion in accordance with the Sedimentation Pollution Control Act of 1973 (NCGS § 113A-52) and 15A NCAC 04A,
5. Preserve existing trees and vegetation to the greatest extent possible and protect existing utilities from damage created by land disturbing activities, and
6. Minimize loss of life and property due to flood conditions.

4.2. WATER SUPPLY SOURCE WATERSHED PROTECTION

4.2.1. APPLICABILITY.

No person shall perform land-disturbing activities that cause or contribute to the contamination of the City's water supply. Property lying within a Watershed Protection Overlay District shall be subject to the remainder of the requirements of this section and subject to the N.C. Division of Water Quality's Surface Waters and Wetlands Standards (15A N.C. Administrative Code 02B).

4.2.2. WATERSHED PROTECTION OVERLAY DISTRICTS.

Watershed Protection Overlay Districts (WPODs) are established and their boundaries are interpreted in accordance with new Article 9. WPODs are shown on the City's official Zoning Map. Water quality classifications are assigned by the North Carolina Environmental Management Commission in accordance with 15A NCAC 02B .0100.

- A. Coddle Creek Reservoir: WS-II Critical Area and WS-II Balance of Watershed, and
- B. Lake Concord: WS-IV Critical Area and WS-IV Balance of Watershed.

4.2.3. TYPES OF DEVELOPMENT.

Water supply watershed protection requirements are based on the intensity of the development and the classification of the watershed area. There are different standards for each type of watershed. There is one set of standards for WS-II watersheds and another for WS-IV watersheds. In turn each watershed is divided into two areas - the critical area within one-half mile of the water and the remainder of the area in the watershed. The four watershed areas are shown on the zoning map.

A. WS-II CODDLE CREEK WATERSHED: LAND IN THE CRITICAL AREAS.

- 1. Low-Density Developments. Developments in the critical areas shall be classified as low-density if no more than one dwelling unit per two acres or no more than 6% built-upon area is created.
- 2. High-Density Developments. Developments in the critical areas shall be classified as high-density if the development is not a Low Density Development as defined in the previous paragraph. High density developments in the critical areas shall not exceed one dwelling unit per two acres or no more than 24% built-upon area is created.

B. LAND IN THE BALANCE OF WS II CODDLE CREEK WATERSHED OUTSIDE OF THE CRITICAL AREAS.

- 1. Low-Density Developments. Developments in the balance of the watershed shall be classified as low-density if no more than one dwelling unit per acre or no more than 12% built-upon area is created.
- 2. High-Density Developments. Developments in the balance of the watershed

shall be classified as high-density if the development is not a Low Density Development as defined in the previous paragraph. Developments in this area shall not exceed one dwelling unit per two acres or no more than 30% built-upon area is created.

C. WS-IV LAKE CONCORD WATERSHED: LAND IN THE CRITICAL AREAS.

1. Low-Density Developments. Developments in the critical areas shall be classified as low-density if no more than two dwelling units per one acre or no more than 24% built-upon area is created.
2. High-Density Developments. Developments in the critical areas shall be classified as high-density if the development is not a Low Density Development as defined in the previous paragraph. New developments shall not exceed 50% built-upon area. Engineered stormwater controls shall be used to control the first inch of rainfall.

D. LAND IN THE BALANCE OF WS IV LAKE CONCORD WATERSHED OUTSIDE OF THE CRITICAL AREAS.

1. Low-Density Developments. Developments in the balance of the watershed shall be classified as low-density if no more than two dwelling unit per acre or no more than 24% built-upon area is created, for developments with curb-and-gutter.
2. High-Density Developments. Developments in the balance of the watershed shall be classified as high-density if the development is not a Low Density Development as defined in the previous paragraph. New developments shall not exceed 70% built-upon area. Engineered stormwater controls shall be used to control the first inch of rainfall.

E. LAND IN THE BALANCE OF THE CITY OUTSIDE OF EITHER WATER SUPPLY WATERSHED AREA.

1. Shall meet the requirements found later in this Article at § 4.4.3.

F. STANDARDS FOR ALL DEVELOPMENTS IN THE WATERSHED AREAS.

1. A vegetative buffer at least 100-feet wide shall be provided around the built-upon area.

4.2.4. ENGINEERED STORMWATER CONTROLS

All engineered stormwater controls shall meet the standards of Section 4.3 through 4.5, inclusively, and 4.7 as well as the other standards of the CDO.

4.2.5. UNDISTURBED, VEGETATIVE BUFFER WIDTHS.

Within Watershed Protection Overlay Districts, an undisturbed, vegetative buffer shall be maintained along all waterbodies in accordance with the widths specified in Section 4.3 of this Ordinance.

4.2.6. ACTIVITIES AND STRUCTURES WITHIN THE UNDISTURBED, VEGETATIVE BUFFER.

No land-disturbing activity shall occur within the undisturbed, vegetative buffer, except those provided for in the following subsection.

- A. Permitted Activities and Structures. The following activities and structures shall only be allowed if no practicable alternative exists and provided that the activity and/or structure does not pose a threat to the quality of the water supply. These activities shall minimize built-upon surface area, direct runoff away from the surface water, and maximize the utilization of BMPs.
1. Stabilization of streambanks and shorelines approved by the U.S. Army Corps of Engineers;
 2. Construction of water dependent structures as approved by N.C. Division of Water Resources, Department of Environment and Natural Resources;
 3. Construction of structures such as flagpoles, signs, and security lights, which result in only *de minimis* increase in impervious area as approved by the Administrator;
 4. Repair and/or reconstruction of any existing building or built-upon area that has been damaged or removed for any reason, provided:
 - Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage or removal;
 - The total amount of space devoted to built-upon area is not increased; and
 - The repair or reconstruction is otherwise permitted under the provisions of this ordinance.
 5. Construction of public works projects such as road crossings and greenways. To the extent practicable, the construction of new roads in the critical areas should be avoided. The N.C. Department of Transportation BMPs outlined in “Best Management Practices for the Protection of Surface Waters” shall be used for all road and bridge construction projects and shall meet all of the standards of Section 4.3 through 4.5, inclusively, including the requirements of Section 4.4.6, Maintenance of Stormwater Control Structures. At a minimum, utility corridors shall be fifteen (15) feet landward from waterbodies; the N.C. Division of Water Quality must approve exceptions.

4.2.7. PROHIBITED ACTIVITIES AND STRUCTURES.

The following activities and structures shall not be located within the undisturbed, vegetative buffer:

1. New development, except as provided in Section 4.2.5.1 above;
2. New or failing on-site sewage systems that utilize ground absorption;
3. New or inadequate sedimentation and erosion control structures;
4. Storage or disposal of junk, trash, or other refuse;
5. New facilities that would require spill containment for toxic and hazardous materials or existing facilities with inadequate spill containment structures and plans for toxic and hazardous materials;
6. Improper management of stormwater runoff; or
7. Any other activity or structure found to pose a threat to the quality of the water supply.

4.2.8. SPECIAL INTENSITY ALLOCATIONS.

New development may be established with up to seventy percent (70%) of built-upon area as Special Intensity Allocations (SIAs). SIAs shall be allocated by the Administrator through the zoning compliance permit process. The Administrator shall maintain a record of the total acreage within each overlay district that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. Up to 205.1 acres in the balance of the Lake Concord watershed may be allocated. The right to develop an SIA shall terminate with the loss of the right to develop due to the expiration of a Zoning Compliance permit or building permit. In such cases, allocated acreage or unused allocated acreage shall be returned to the unallocated total acreage eligible for allocation. In no case shall the built-upon area of an SIA exceed the built-upon limitations of the underlying zoning district.

4.2.9. DUTIES OF THE ADMINISTRATOR.

The City Manager, or his designee, the Director of Water Resources (the “Director”) shall maintain records of the administration of the Water Supply Source Watershed Protection regulations and shall submit any modifications of the regulations to the Division of Water Quality, Division of Environmental Health, and Division of Community Assistance. Additionally, the City Manager or the Director shall submit an annual report of each project receiving a variance and the reason for the variance granted by the Board of Adjustment during the previous calendar year on or before January 1 of the following year.

4.3. WATERBODY BUFFERS

4.3.1. APPLICABILITY.

No person shall perform land-disturbing activities that cause or contribute to a violation of water quality standards. Protective vegetated and revegetated strips of land shall be maintained on all sides of regulated rivers and streams, including perennial streams, intermittent streams, lakes, and other natural waterbodies outside of the Reservoir Watershed Protection Overlay Districts. All areas of the City not located in a Reservoir Watershed Protection Overlay District are located in the River/Stream Overlay District. *Class 1 streams* include all rivers or streams shown on USGS Quadrangle maps as a solid blue line. *Class 2 streams* include all rivers or streams:

- shown on USGS Quadrangle Maps as a dotted blue line, or
- if not already classified as a *Class 1 stream*, identified as a stream on the NRCS soil survey map for Cabarrus County, or
- identified as a stream by a qualified stream classification professional as defined in subsection B.

Class 1 and *Class 2 streams* shall be subject to these requirements. Lakes and other natural or man-made waterbodies receive the same classification as the stream leaving the lake and other natural or man-made waterbody. Both *Class 1* and *Class 2 streams*, and lakes and impoundments drained by the streams are classified as Waters of the State.

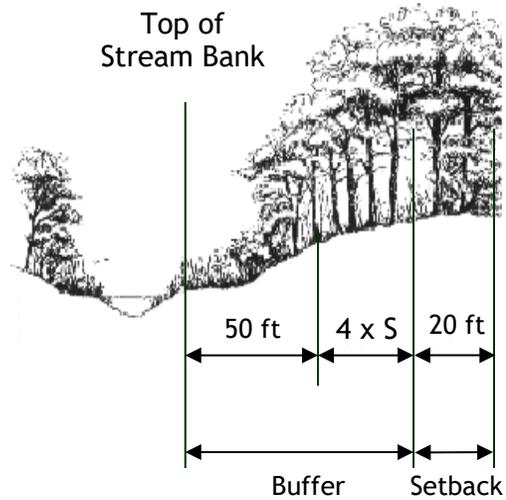
- A. The following areas are not subject to the remainder of the requirements of this section:
1. Areas along streams or waterbodies shown on the most recent United States Geodetic Survey (USGS) 1:24,000-scale topographic map or NRCS soils map when such streams or waterbodies do not exist;
 2. Impoundments used primarily for bona fide agricultural purposes, including animal watering, irrigation, or other agricultural uses unless the waterbody is part of a natural drainage way (i.e., unless the waterbody is located on a Class 1 or Class 2 stream);
 3. Water dependent structures located, designed, constructed, and maintained to provide minimal disturbance to the waterbody, the maximum practicable nutrient and bacterial removal, and the least practicable adverse effects on aquatic habitat and water quality;
 4. Roads, bridges, stormwater management facilities, impoundments, and utilities where no other practical alternative exists. These structures shall be located, designed, constructed, and maintained to provide minimal disturbance to the waterbody, the maximum practicable nutrient and bacterial removal, and the least practicable adverse effects on aquatic habitat and water quality. At a minimum, utility corridors shall be fifteen (15) feet landward from waterbodies; exceptions must be approved by the N.C. Division of Water Quality; and
 5. Wet-weather ditches or ephemeral streams that have been approved as part of a stormwater management plan.

- B. Streams may exist even if they are not mapped on USGS Quadrangle maps or NRCS Soil Survey maps. A qualified professional must identify streams that exist, but are not mapped. For the purposes of this article, a qualified professional shall mean an individual that has attended wetlands delineation training using application of the 1987 Wetland Delineation Manual by the US Army Corps of Engineers and Identification of Perennial and Intermittent Streams training supported by the North Carolina Division of Water Quality.
- C. The determination that a stream indicated on a USGS Quadrangle map or NRCS soil survey map does not exist must be concurred by NCDENR's Division of Water Quality.

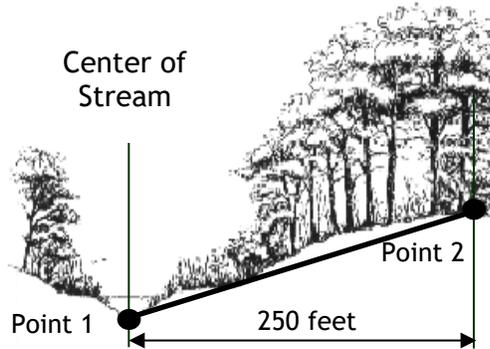
4.3.2. BUFFER AND SETBACK WIDTHS

Class 1 and *Class 2 streams* shall be protected by an undisturbed buffer and a vegetated setback. An undisturbed buffer shall protect lakes and impoundments.

- A. ***Class 1 Streams.*** Buffers shall be measured from the top of the stream bank landward in a direction perpendicular to the movement of the water in the stream. Setbacks shall be measured from the buffer boundary landward in a direction perpendicular to the edge of the buffer.
 - 1. ***Undisturbed Buffers.*** The width of the undisturbed buffer shall be fifty (50) feet plus four (4) times the average percent slope of the land area adjacent to the stream. This slope shall be calculated by measuring a distance of two hundred and fifty (250) feet landward from the center of the stream. The maximum width of the undisturbed buffer shall be one hundred twenty (120) feet from the top of the stream bank.
 - 2. ***Vegetated Setbacks.*** The width of the vegetative setback shall be twenty (20) feet of non-built upon area adjacent to and in addition to the undisturbed buffer.



Width = $[50 + (4 \times S)]$
 Minimum width: 50 feet (areas with flat slopes)
 Maximum width: 120 feet (areas with steep slopes)



Pre-development elevation of Point 1 in feet = E_1
 Pre-development elevation of Point 2 in feet = E_2

$$S = \frac{E_2 - E_1 \text{ (feet)}}{250 \text{ feet}} \times 100$$

Figure 4.3.2: Sample Calculation for Class 1 Stream Undisturbed Buffer.

- B. **Class 2 Streams.** Buffers shall be measured from the top of the stream bank landward in a direction perpendicular to the movement of the water in the stream. Setbacks shall be measured from the buffer boundary landward in a direction perpendicular to the edge of the buffer.
1. **Undisturbed Buffers.** The width of the undisturbed buffer shall be thirty (30) feet.

2. *Vegetated Setbacks.* The width of the vegetative setback shall be ten (10) feet of non-built upon area adjacent to and in addition to the undisturbed buffer.
- C. **Lakes and Impoundments.** Buffers are required around all lakes and impoundments, whether man-made or naturally occurring, if directly connected to the Waters of the State. Buffers shall be measured from the normal high-water elevation landward in a direction perpendicular to the edge of the water. Buffers for lakes and impoundments shall be calculated in the same manner as required above for the stream exiting the lake or impoundment.
1. For existing *Class 1 streams*, an undisturbed buffer shall be maintained with a minimum of fifty (50) feet plus four (4) times the average percent slope of the land between the highest normal elevation of the water and two hundred fifty (250) feet landward. For lakes and impoundments built on or over *Class 1 streams*, other than those identified in Sec. 4-2, the maximum width of the undisturbed buffer shall be one hundred twenty (120) feet from the normal high-water elevation. A minimum 150-foot undisturbed, vegetative buffer from the normal high-water level shall be maintained on water supply sources identified in Section 4.2.
 2. For existing *Class 2 streams*, other than those identified in Sec. 4-2, the minimum width of the undisturbed buffer shall be thirty (30) feet from the normal high-water elevation. The additional ten (10)-foot vegetated non-built upon setback shall also apply.

4.3.3. ACTIVITIES AND STRUCTURES WITHIN THE UNDISTURBED BUFFER.

No land disturbing activity shall occur within the undisturbed buffer, except those provided for in the following subsections. Property owners shall maintain undisturbed buffers in such a way to maximize sheet flow of stormwater runoff to the maximum extent practicable to reduce stormwater velocity and filter pollutants. All disturbed areas within the undisturbed buffer, allowed in accordance with this section or not, shall be revegetated with perennial vegetation as soon as practical after the disturbance.

- A. **Permitted Activities And Structures.** The following activities and structures shall only be allowed if no practicable alternative exists and provided that the activity and/or structure does not pose a threat to the quality of surrounding waterbodies. These activities shall direct runoff away from the surface water and maximize the utilization of BMPs.
1. Construction of utilities and maintenance of utility easements, provided that utility corridors are at least fifteen (15) feet landward from waterbodies or their locations have been approved by the N.C. Dept. of Environment and Natural Resources, Division of Water Quality;
 2. Construction and maintenance of greenways;

3. Agricultural soil disturbing activities such as plowing, grading, ditching, excavating that conform to appropriate state and federal regulations;
 4. Public roads, driveways and other activities allowed in accordance with the Concord Technical Standards Manual Article 1 - Stormwater;
 5. Activities permitted by the US Army Corps of Engineers and the NC Department of Environment and Natural Resources; and
 6. Storm debris removal or vegetation maintenance activities.
- B. Prohibited Activities and Structures.** The following activities and structures shall not be located within the undisturbed buffer:
1. New on-site sewage systems utilizing ground adsorption;
 2. New structures or built-upon area that includes gravel, concrete, asphalt, and other impervious or semi-impervious surfaces;
 3. Mechanized land clearing activities unless allowed in 4.3.3.A; and
 4. Other prohibited activities in accordance with the Concord Technical Standards Manual Article 1 - Stormwater.
- C. Activities and Structures Within The Vegetative Setback.** Property owners shall maintain perennial vegetation within the vegetative setback. All disturbed areas within the vegetative setback shall be revegetated with perennial vegetation as soon as practical after the disturbance.
- D. Easements.** Undisturbed buffers may be recorded as easements with the Cabarrus County Register of Deeds at the expense of the developer and dedicated to:
1. A property owners association; or
 2. The Cabarrus Soil and Water Conservation District; or
 3. The City of Concord; or
 4. A conservation organization.

4.4. STORMWATER CONTROL

4.4.1. APPLICABILITY.

No person shall perform land-disturbing activities that cause or contribute to damage resulting from the improper control of stormwater. All developments shall control stormwater drainage and minimize the negative qualitative and quantitative impacts of stormwater runoff from the development regardless of the development's proximity to waterbodies. All property within Concord's planning jurisdiction is within one of three water-related overlay districts. The water shed around the Coddle Creek Reservoir (Lake Howell) and Coddle Creek is a WS II watershed and is discussed at Section 4.2. The watershed around Lake Concord is WS IV watershed and can also be found at Section 4.2. All of Concord is located in the watersheds controlled by the National Pollution Discharge Elimination System Phase II Stormwater Permit issued by the State of North Carolina. The strictest standards apply. Sections 4.3 through 4.7 contain the standards for the balance of Concord outside the Coddle Creek and Lake Concord watersheds.

4.4.2. TYPES OF DEVELOPMENT.

Stormwater control requirements are based on the intensity of the development.

- A. Low-Density Developments.** Developments shall be classified as low-density if at least one of the following is true:
 - 1. No more than two dwelling units per acre are created, or
 - 2. No more than 24% built-upon area is created.
- B. High-Density Developments.** Developments shall be classified as high-density if at least one of the following is true:
 - 1. More than two dwelling units per acre are created, or
 - 2. Greater than 24% built-upon area is created.

4.4.3. STANDARDS.

- A. Low-Density Developments.** Phase II low density developments shall:
 - 1. Use vegetative conveyances to the maximum extent practicable; and
 - 2. Provide limited stormwater collection systems including piping- to get under a road or driveway, and no inverted crown streets; and
 - 3. Where curb & gutter streets are used, curb-cut outlets or catch basin outlets to swale systems designed to convey stormwater must be provided; and

4. Impose deed restrictions and protective covenants to ensure that subsequent development activities maintain the stormwater controls consistent with the approved site plan or construction plan; and
5. No area(s) of the project shall have such high density that runoff threatens water quality (i.e. pocket of high density) without utilizing stormwater control measures equivalent to those described for High-Density Developments in Section 4.4.3.B below at pages 4-16 and 4-17, and locates the higher density in upland areas and away from surface waters and drainage ways to the maximum extent practicable. (“High density pocket” is defined as, “If the density for any drainage basin or sub-basin exceeds 34-percent built upon area, structural BMPs sufficient to achieve 85-percent average annual TSS removal shall be required for that basin or sub-basin, even if the total project density is 24-percent built upon area or less.”); and
6. Discharge stormwater at a rate equal to or less than the pre-development discharge rate for both the one-year 24-hour storm and the ten-year 24-hour storm.

B. High-Density Developments. Phase II high-density developments shall:

1. Utilize stormwater control measures that control and treat the runoff from the first one inch of rain; and;
2. Discharge stormwater at a rate equal to or less than the pre-development discharge rate for BOTH the 1-year 24-hour storm AND the 10-year 24-hour storm; and
3. The runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours; and
4. Design all structural stormwater treatment systems to achieve 85% average annual removal of total suspended solids; and
5. Utilize stormwater management measures shall comply with the requirements listed in the N.C. Administrative Code 15A NCAC 2H .1008(c), entitled General Engineering Design Criteria for all Projects, the NCDENR Stormwater BMP Manual, and the Manual; and
6. Impose deed restrictions and protective covenants to ensure that subsequent development activities maintain the stormwater controls consistent with the approved site plan or construction plan.
7. Locate all built-upon areas at least thirty feet landward of Class 1 and 2 streams; and
8. For best management practices that require a separation from the seasonal high water table, provide separation by at least twelve (12) inches of naturally occurring soil above the seasonal high water table.

4.4.4. STORMWATER MANAGEMENT PLANS.

For all land disturbances one acre or greater or developments that create 20,000 square feet or more of built upon area, including smaller projects that are a part of a larger common plan of development, subdivision or sale, stormwater management plans shall be prepared for, and shall be approved by, the Director of Water Resources upon the recommendation of the Development Review Committee pursuant to the application for a stormwater permit. Stormwater management plans shall:

- A. Meet or exceed the criteria contained in N.C. Admin. Code 15A NCAC 2H .0126.;
- B. Demonstrate that proposed stormwater facilities control the impacts of the development to the maximum extent practicable and that those facilities are designed to meet the criteria described in the NCDENR Stormwater BMP Manual and the *Manual*;
- C. Be signed and sealed by a qualified professional engineer or registered landscape architect in the State of North Carolina;
- D. Include drawings, maps, supporting calculations, specifications, and summaries as outlined in the *Manual*;
- E. Identify the stormwater impacts of the proposed development. Stormwater impacts may include:
 - 1. Effects on existing upstream and/or downstream drainage systems and property,
 - 2. The ability of the natural drainage way to accommodate additional stormwater runoff,
 - 3. Water quality impacts to receiving waterbodies, and
 - 4. Site-specific criteria;
- F. Demonstrate that stormwater runoff is adequately conveyed through the development in a drainage system. The drainage system shall meet all the standards of section 4.4.3. B. 1. through 8. (See above at page 4-13).
- G. Control pollutants to levels required by the NCDENR Stormwater BMP Manual and the *Manual*.
- H. **Design Standards.** Stormwater conveyance and control system extensions and/or modifications shall be designed in accordance with all applicable federal; state, including but not limited to 15A NCAC 2H .1008 and the NCDENR Stormwater BMP Manual; local regulations; and the City's Technical Standards Manual.

- I. **Required Design Calculations.** The engineer shall provide all necessary evaluations, justifications, and calculations to the City's Stormwater Department deemed necessary to meet the requirements of all federal, state, and local requirements and to ensure that the design conforms to good engineering practice.

4.4.5. STORMWATER INSTALLATION/GRADING PERMITS.

A stormwater/grading permit shall be received prior to all land disturbances that require stormwater management plans. The application process and requirements for issuance of this permit are provided in Article 6.1 and the *Manual*.

4.4.6. MAINTENANCE OF STORMWATER CONTROL MEASURES AND DEVICES.

- A. **General.** The landowner or person in possession or control of the land shall maintain all stormwater control measures and devices and all open space areas required by the approved stormwater management plan and/or permit unless those measures, devices, and open space areas are accepted for maintenance by a governmental agency.

- B. **Agreements Governing Ongoing Maintenance.** For all off-site stormwater control facilities and for all other stormwater control facilities, that are not accepted for maintenance by a governmental agency, the following document(s) are required: (1) A maintenance agreement between the City and the owner describing the rights and responsibilities of each party in maintaining the stormwater control structures; (2) For all off-site stormwater control facilities and all on-site stormwater facilities that serve more than one (1) lot, a contract and maintenance agreement or covenants are required. If a homeowners association is created, then the agreement and covenants shall also apply to the association and its members; and (3) Access easement giving City right to inspect and maintain the BMP (stormwater control facility).

1. **Stormwater replacement protection easement and access maintenance agreement or covenants.** For all stormwater control facilities, which are to be or are owned and maintained by a developer, owner, property owner's association or similar entity, an access easement and maintenance agreement (or covenants) with the City are required. All maintenance agreements (or covenants) shall contain without limitation the following provisions:

- A. A description of the property on which the stormwater control facility is located and all easements from the site to the facility;
- B. Size and configuration of the stormwater control facility;
- C. A statement that properties which will be served by the stormwater control facility are granted rights to construct, use, inspect, replace, reconstruct, repair, maintain, access to the device and to transport, store, and discharge stormwater to and from the device;
- D. If applicable, a statement that each lot (if now or in the future to be in separate ownership) served by the stormwater control facility is jointly or severally responsible for repairs and maintenance of the device A right of

contribution in favor of each owner shall be included in the maintenance agreement. A statement that failure to maintain stormwater control facilities is a violation of the City Code potentially subjecting each lot owner subject to this legal document to significant daily civil penalties and other enforcement actions.

- E. If an association is delegated these responsibilities, then membership into the association shall be mandatory for each parcel served by the device and any successive owner, the association shall have the power to levy assessments for these obligations, and that all unpaid assessments levied by the association shall become a lien on the individual parcel. Common expenses include maintenance of stormwater control measures, premiums for liability insurance in an amount of not less than one million dollars (\$1,000,000.00) of coverage.
- F. An operation and maintenance plan or manual shall be provided by the initial developer. The plan or manual shall indicate what operation and maintenance actions are needed, and what specific quantitative criteria will be used to determine when those actions are to be undertaken. The plan or manual must indicate the steps that will be taken to restore a stormwater system to design specifications if a failure occurs.
- G. A statement that stormwater control measures shall be maintained in accordance with the attached stormwater operations and maintenance manual and at all times the stormwater control measures shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities, and that the stormwater control measures shall perform as designed.
- H. That stormwater control facilities shall be maintained by the owner, developer, homeowners' association, property owners' association, or designated commercial lot owner(s) in accordance with the stormwater operations and maintenance manual approved by the Stormwater Administrator, which manual shall be attached to the maintenance covenant as an exhibit, and at all times the stormwater control measures shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities, and that the stormwater control facilities shall perform as designed.
- I. A warning statement stating that the stormwater control measures are required to comply with Concord City Code of Ordinances and Technical Standards Manual and that failure to maintain stormwater control measures is a violation of the City Code potentially subjecting each lot owner subject to this legal document to significant daily civil penalties and other enforcement actions.
- J. Acknowledgment that the owner, developer, property owner's association or similar entity shall continuously operate and maintain the stormwater control facilities.

- K. Granting to the City a permanent irrevocable easement to enter, inspect, monitor, maintain, repair, and reconstruct stormwater control facilities.
 - L. A statement that says in the event that the owner, developer, property owner's association or similar entity fails to continuously operate and maintain the stormwater control facilities that the City may perform such work as owner, developer, property association or similar entity and its members are responsible for any and all costs the City expends to maintain or repair the stormwater control facility or to correct any operational deficiencies.
 - M. A statement that this agreement shall not obligate the City to maintain or repair any stormwater control measure or device, and that the City shall not be liable to any person for the condition or operation of stormwater control facilities.
 - N. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
- C. Prior to recording the easement and maintenance agreement or covenant, the City Council shall accept the agreement and easement at a regular or special meeting.
 - D. The maintenance agreement or covenants and easements shall be recorded with the Cabarrus County register of deeds after acceptance by the City Council but prior to the recording of any new lot served by the stormwater control facility or prior to the issuance of any development permit for any existing lot. The maintenance easement agreement or covenant shall be binding on all subsequent owners of land served by the stormwater control facilities. The agreement/covenants/easement(s) may be recorded by the City Attorney. Additionally, no Certificate of Compliance shall be issued for the property until a recorded copy of the easement and /or maintenance covenant has been received.

4.4.7. INSPECTIONS AND DOCUMENTS.

A. INSPECTIONS

1. The person responsible for maintenance of the Stormwater Control Measures (SCM), previously known as Best Management Practices (BMPs), shall submit to the Stormwater Department of the City an annual inspection report completed by a qualified registered North Carolina Professional Engineer.
2. The annual inspection is to be completed every year by the date publicized by the City. More information will be published by January 31 every year on the City of Concord's website, <https://www.concordnc.gov/SCM-Inspections>.
3. If the SCM is not working correctly or needs maintenance completed, the engineer shall note the maintenance required and supply a date that it should be completed and submit that report. Once the maintenance is completed, the engineer shall submit a passing, signed and sealed inspection report.

B. DOCUMENTS

1. The owner of each structural BMP shall keep records of stormwater plans, inspection reports, monitoring results, maintenance activities, and repairs for at least five years from the date of creation of the record and shall submit the same records upon request to the stormwater administrator.

4.5. SEDIMENTATION AND EROSION CONTROL

4.5.1. APPLICABILITY.

No person shall perform land-disturbing activities that cause or contribute to the violation of a water quality standard or property damage resulting from the improper control of sedimentation and erosion. All developments shall control sedimentation and erosion and minimize the negative impacts of sedimentation and erosion on water quality and property. SEDIMENTATION AND EROSION CONTROL PERMITS ARE ISSUED ONLY BY CABARRUS THE STATE OF NORTH CAROLINA. The following areas are not subject to the remainder of the requirements of this section:

- A. Land disturbance of less than one acre of land, provided that all of the following is true:
 - 1. Less than ten thousand square feet (10,000 ft²) of land will be disturbed within a Class II or Class III water supply watershed and all other applicable water supply watershed protection requirements are met, and
 - 2. Less than twenty thousand square feet (20,000 ft²) of land will be disturbed within a Class IV water supply watershed and all other applicable water supply watershed protection requirements are met, and
 - 3. No land disturbance will occur within an undisturbed stream buffer or vegetative setback as required in Sec. 4.3.2, and
 - 4. No land disturbance will occur within an undisturbed lake or impoundment buffer or setback.
- B. Land disturbance for farm purposes on a bona fide farm;
- C. Land disturbance for harvesting timber in forestland;
- D. Land disturbance requiring a permit in accordance with the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes;
- E. Land disturbance over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a); and
- F. Land disturbance essential to protect human life for the duration of an emergency.

4.5.2. SEDIMENTATION AND EROSION CONTROL PLANS.

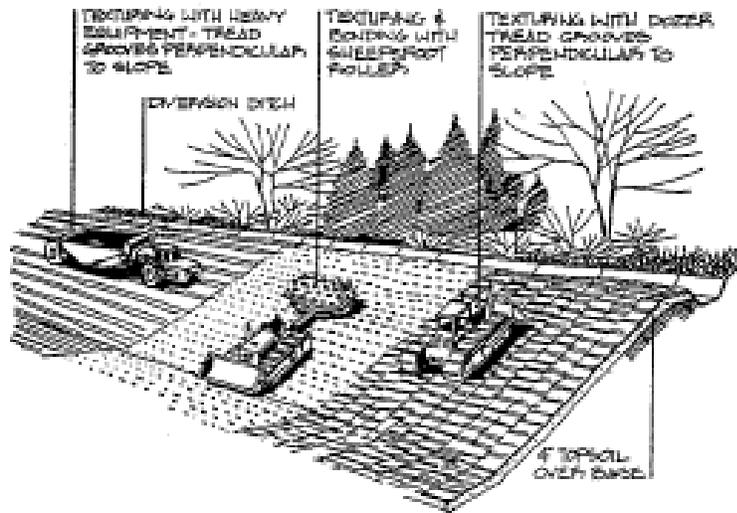
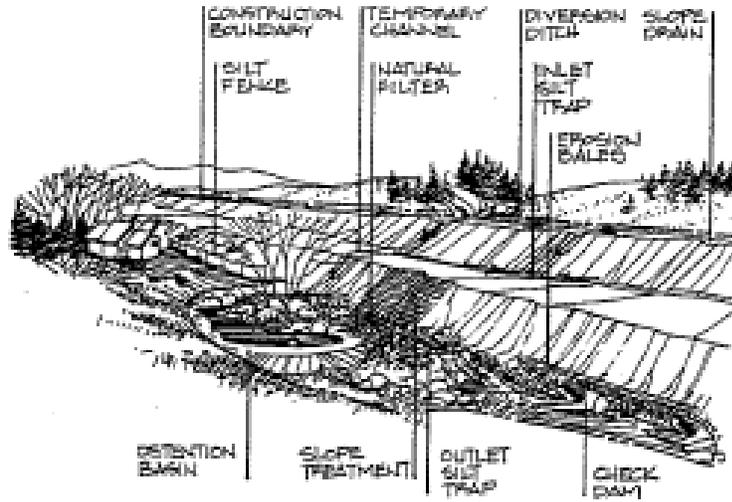
For all land disturbances subject to this section, sedimentation and erosion control plans shall be prepared for, and shall be approved by the State of North Carolina pursuant to the authority delegated to Cabarrus County by the N.C. Department of Environment and Natural Resources.

- A. Sedimentation and erosion control plans shall include drawings, maps, supporting calculations, specifications, and summaries as outlined in the *Manual*.
- B. Sedimentation and erosion control plans shall:
 - 1. Identify areas that are subject to severe erosion,
 - 2. Identify off-site areas that are vulnerable to damage from sedimentation and/or erosion,
 - 3. Demonstrate techniques that will be used to minimize the time of exposure of bare soil,
 - 4. Demonstrate techniques that will be used to minimize the area of exposed bare soil at any one particular instant in time,
 - 5. Demonstrate techniques that will be used to control stormwater runoff originating upgrade of areas of exposed bare soil,
 - 6. Demonstrate techniques that will prevent off-site sedimentation damage,
 - 6. Demonstrate measures that will be taken to prevent the accelerated erosion of the waterbody receiving stormwater runoff and to minimize increased sedimentation of the waterbody, and
 - 7. Identify devices and practices proposed to keep wash-down water from storm drains and waterways.

4.5.3. SEDIMENTATION AND EROSION CONTROL PERMITS.

A sedimentation and erosion control permit shall be received prior to all land disturbances subject to this section. The application process and requirements for issuance of this permit are administered by the State of North Carolina. This ordinance shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulations, permits, or easements, covenants, or other agreements between parties, provided however that, where this ordinance imposes greater restrictions and controls with respect to sedimentation and erosion control, the provisions of this ordinance shall prevail.

EXAMPLES OF SEDIMENT AND EROSION CONTROL METHODS



4.6. VEGETATION AND UTILITY PROTECTION

4.6.1. APPLICABILITY.

No person shall perform land-disturbing activities that remove natural vegetation without performing the appropriate mitigation needed to protect water quality and the aesthetics of the area. No person shall perform land-disturbing activities that negatively impact utilities. The following activities are not subject to the remainder of the requirements of this section:

- A. Land disturbances of less than one acre of land, provided that all of the following is true:
 - 1. No land disturbance will occur within a utility corridor, and
 - 2. No land disturbance will occur within a Watershed Protection Overlay District, and
 - 3. No land disturbance will occur within an undisturbed perennial stream buffer or vegetative setback, and
 - 4. No land disturbance will occur within an undisturbed intermittent stream buffer or vegetative setback, and
 - 5. No land disturbance will occur within an undisturbed lake or impoundment buffer or setback.
 - 6. Existing tree canopy and significant trees have been assessed to meet tree preservation requirements of Article 11 or related modification has been obtained, where applicable.
- B. Land disturbance for farm purposes on a bona fide farm; or
- C. Land disturbance for harvesting timber in forestland.

4.6.2. Stormwater Installation/Grading Permits.

- A. For all land disturbances subject to this section, grading/stormwater plans shall be prepared for, and shall be approved by the Administrator pursuant to the application for a grading/stormwater permit. Grading/stormwater permits shall be issued before developing or disturbing land. The application process for grading/stormwater plans and permits are found in Section 6.1.7. Grading/stormwater plans shall:
 - 1. Include drawings, maps, supporting calculations, specifications, and summaries as outlined in the Manual¹;

¹ EDITOR'S FOOTNOTE Requirements now at Appendix B7. Add stormwater requirements to Grading permits.

2. Demonstrate techniques that will be used to protect existing trees and vegetation from land-disturbing activities. Removal of existing trees and vegetation shall only be allowed if no practicable alternative exists and their removal does violate any other provisions of this ordinance; and
 3. Demonstrate techniques that will be used to protect existing utilities from land-disturbing activities.
- B. Vegetation Protection and Retention.** Grading/stormwater plans shall be designed to preserve existing trees and vegetation to the greatest extent possible and shall seek to incorporate existing significant stands of trees as well as individual trees; these plans shall also account for meeting tree preservation requirements in accordance with Article 11, where applicable. Certain excavation techniques used by utility companies and others can cause removal of vital roots, change drainage patterns and create conditions that could kill trees and plant materials or make them more susceptible to disease and deterioration. The intent of these regulations is to recognize the need to alter the landscape during site development activities while setting out standards necessary to ensure tree preservation to the greatest extent possible.
- C. General Requirements.** Existing trees and vegetation that are to be preserved shall be protected from all construction activities including installation and/or replacement of utilities, earthwork operations, movement and storage of equipment and materials and dumping of toxic materials. Tree and vegetation protection techniques shall be shown in the Grading/stormwater Plans and shall be in conformance with standard practices set forth in the NCDENR Stormwater BMP Manual, the City of Concord Technical Standards Manual, and Section 11.9 of this ordinance for tree preservation.
- D. Repair of Damaged Buffers.** Any buffers lost due to any unapproved activity, including construction, shall be replaced with similar size and number of plants and revegetated using native plant species in accordance to the criteria established for riparian buffer restoration by the N.C. Department of Environment and Natural resources Ecosystem Enhancement Program and as required and approved by the Administrator. Violations of Section 11.9 related to removal, damage, or death of trees in established tree save areas are subject to tree replacement requirements of Section 11.9.6.

4.7 FLOODPLAIN LIFE AND PROPERTY PROTECTION

4.7.1 FINDINGS OF FACT

- A. The flood prone areas within the City of Concord are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

4.7.2 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- A. restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- B. require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- C. control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- D. control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- E. prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

4.7.3 OBJECTIVES

The objectives of this ordinance are to:

- A. protect human life, safety, and health;
- B. minimize expenditure of public money for costly flood control projects;
- C. minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. minimize prolonged business losses and interruptions;
- E. minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- F. minimize damage to private and public property due to flooding;
- G. Make flood insurance available to the community through the National Flood Insurance Program;

- H. Maintain the natural and beneficial functions of floodplains;
- I. help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- J. ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

4.7.4 DEFINITIONS (SEE ARTICLE 14)

4.7.5 GENERAL PROVISIONS

A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the City of Concord.

B. ACTIVITIES AND STRUCTURES WITHIN SPECIAL FLOOD HAZARD AREAS

All development within the Special Flood Hazard Areas shall meet the Water Supply Source Watershed Protection (Section 4.2), Waterbody Buffers (Section 4.3), Stormwater Control (Section 4.4), Sedimentation and Erosion Control (Section 4.5) and Vegetation and Utility Protection (Section 4.6) requirements.

1. General. New construction and substantial improvements shall be:

- a. Constructed with materials and utility equipment resistant to flood damage; and
- b. Constructed by methods and practices that minimize flood damage.

2. Utilities

- a. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- b. New and replacement sanitary sewer and disposal systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into the floodwaters.

C. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated November 16, 2018 for Cabarrus County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the City of Concord are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Cabarrus County Unincorporated Area, dated Nov. 2, 1994.

D. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT (ZCP)

A Floodplain Development Permit (ZCP) shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 4.7.5(C) of this ordinance.

E. COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

F. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

G. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under State statutes.

H. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Concord or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

I. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special use permits, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Concord from taking such other lawful action as is necessary to prevent or remedy any violation.

4.7.6 ADMINISTRATION

A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

In accordance with Section 2.1.2, the Planning and Neighborhood Development Director or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

1. Application Requirements

Application for a Floodplain Development Permit (ZCP) shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit (ZCP):

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 4.7.5(C), or a statement that the entire lot is within the Special Flood Hazard Area;
 - flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 4.7.5(C);
 - the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 4.7.5(C);
 - the Base Flood Elevation (BFE) where provided as set forth in Sections 4.7.5(C); 4.7.6(C); or 4.7.7(C).
 - the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - the certification of the plot plan by a registered land surveyor or professional engineer.
- b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
 - Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
- c. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- d. A Foundation Plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 4.7.7(B)(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

- e. Usage details of any enclosed areas below the lowest floor.
 - f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 - g. Certification that all other Local, State and Federal permits required prior to Floodplain Development Permit (ZCP) issuance have been received.
 - h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections 4.7.7(B)(6) and 4.7.7(B)(7) of this ordinance are met.
 - i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- 2. Permit Requirements** - The Floodplain Development Permit (ZCP) shall include, but not be limited to:
- a. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 4.7.5(C).
 - c. The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - d. The regulatory flood protection elevation required for the protection of all public utilities.
 - e. All certification submittal requirements with timelines.
 - f. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 4.7.7(E) have been met.
 - g. The flood openings requirements, if in Zones A, AO, AE or A1-30.
- 3. Certification Requirements**
- a. Elevation Certificates
 - An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit (ZCP).
 - An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a

certification of the elevation of the reference level, in relation to mean sea level. . Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- A final as-built Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

b. Floodproofing Certificate

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

Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- c. If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 4.7.7(B)(3)(b).
- d. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit (ZCP).
- e. Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - Recreational Vehicles meeting requirements of Section 4.7.7(B)(6)(a);
 - Temporary Structures meeting requirements of Section 4.7.7(B)(7); and
 - Accessory Structures less than 150 square feet meeting requirements of Section 4.7.7(B)(8).

4. Determinations for existing buildings and structures

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

- Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.
3. Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 4.7.7(E) are met.
6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 4.7.6(B)(3).
7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 4.7.6(B)(3).
8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 4.7.6(B)(3).
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 4.7.6(B)(3) and Section 4.7.7(B)(2).
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
11. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 4.7.5(C), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 4.7.7(C)(2)(b) in order to administer the provisions of this ordinance.
12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 4.7.5(C), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of

Map Amendment (LOMA) issued by FEMA in the Floodplain Development Permit (ZCP) file.

14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
15. Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit (ZCP) progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance or in an illegal or dangerous manner, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
17. Revoke Floodplain Development Permit (ZCP)s as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit (ZCP) by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit (ZCP) mistakenly issued in violation of an applicable State or local law may also be revoked.
18. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
19. Follow through with corrective procedures of Section 4.7.6(D).
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 4.7.5(C) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

D. CORRECTIVE PROCEDURES

1. **Violations to be Corrected:** When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
2. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. that the building or property is in violation of the floodplain management regulations;
 - b. that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c. that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
3. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
4. **Appeal:** Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
5. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

E. VARIANCE PROCEDURES

1. The Board of Adjustment as established by the City of Concord, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
2. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
3. Variances may be issued for:
 - a. the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - b. functionally dependent facilities if determined to meet the definition as stated in Article 14 of this ordinance, provided provisions of Sections 4.7.6(E)(9)(b), 4.7.6(E)(9)(c), and 4.7.6(E)(9)(e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - c. any other type of development, provided it meets the requirements of this Section.
4. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - a. the danger that materials may be swept onto other lands to the injury of others;
 - b. the danger to life and property due to flooding or erosion damage;
 - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. the importance of the services provided by the proposed facility to the community;
 - e. the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. the compatibility of the proposed use with existing and anticipated development;
 - h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and

facilities such as sewer, gas, electrical and water systems, and streets and bridges.

5. A written report addressing each of the above factors shall be submitted with the application for a variance.
6. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
8. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
9. Conditions for Variances:
 - a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - b. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued prior to development permit approval.
 - e. Variances shall only be issued upon:
 - a showing of good and sufficient cause;
 - a determination that failure to grant the variance would result in exceptional hardship; and
 - a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
10. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - a. The use serves a critical need in the community.
 - b. No feasible location exists for the use outside the Special Flood Hazard Area.
 - c. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - d. The use complies with all other applicable Federal, State and local laws

- e. The City of Concord has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

4.7.7 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. GENERAL STANDARDS

In all Special Flood Hazard Areas the following provisions are required:

1. All substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
2. All substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. All substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
 - a. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 4.7.6(E)(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a

Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 4.7.6(B)(3).

10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
11. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
13. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
14. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for substantial improvements.
15. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.
16. All fill material within the floodplain shall be cut from an adjacent portion of the floodplain on the same deeded parcel, provided that the soil meets the needed structural requirements. If the soil on the same parcel does not meet the structural requirements, fill material may be taken from another parcel. The net result of cut and fill within the floodplain area shall constitute no net loss to the flood storage capacity of the floodplain. A professional engineer shall certify that the activity or development would not result in an increase in the flood level during a base flood outside property boundaries. If change occurs within property boundaries, applicant will be required to obtain a letter of map amendment from FEMA prior to recording of final plat.
17. New construction is not allowed within the Special Flood Hazard Area.

B. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 4.7.5 (C) or Section 4.7.7(C), the following provisions, in addition to the provisions of Section 4.7.7(A), are required

1. **Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, (two feet above calculated water surface elevation of the base flood) as defined in Article 14 of this ordinance. In addition, new construction must be 100 percent outside of the Special Flood Hazard Area.
2. **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, (two feet above calculated water surface elevation of the base flood) as defined in Article 14 of this ordinance. Structures

(substantial improvement only) located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 4.7.7(F)(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 4.7.6(B)(3), along with the operational plan and the inspection and maintenance plan. In addition, new construction must be 100 percent outside of the Special Flood Hazard Area.

3. Manufactured Homes.

- a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, (two feet above calculated water surface elevation of the base flood) as defined in Article 14 of this ordinance. In addition, new construction must be 100 percent outside of the Special Flood Hazard Area.
- b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- c. All enclosures or skirting below the lowest floor shall meet the requirements of Section 4.7.7(B)(4).
- d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor and Regulatory Flood Protection Elevation, (two feet above calculated water surface elevation of the base flood):

- a. shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or

elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

- b. shall not be temperature-controlled or conditioned;
- c. shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
- d. shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - *A minimum of two flood openings on different sides of each enclosed area subject to flooding;*
 - *The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;*
 - *If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;*
 - *The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;*
 - *Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and*
 - *Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.*

5. Additions/Improvements.

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - *not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.*
 - *a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards of Section 4.7.7(B)(1-4) as applicable.*

- b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards of Section 4.7.7(B)(1-4) as applicable.
 - c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - not a substantial improvement, the addition and/or improvements only must comply with the standards of Section 4.7.7(B)(1-4) as applicable.
 - a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards of Section 4.7.7(B)(1-4) as applicable.
 - d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards Section 4.7.7(B)(1-4) as applicable. For each building or structure, the 1 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- 6. Recreational Vehicles.** Recreational vehicles shall either:
- a. Temporary Placement
 - Be onsite for fewer than 180 consecutive days; or
 - Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
 - b. Permanent Placement. Recreational vehicles that do not meet the limitation of Temporary Placement shall meet all the requirements of Section 4.7.7(B)(1-4) as applicable.

7. Temporary Non-Residential Structures.

Prior to the issuance of a Floodplain Development Permit (ZCP) for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- a. a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
- c. the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- e. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with the provisions of Section 4.7.7(A)(1);
- f. All service facilities such as electrical shall be installed in accordance with the provisions of Section 4.7.7(A)(4) and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 4.7.7(B)(4)(c).

****An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4.7.6(B)(3).**

9. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. **Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

- b. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- c. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 4.7.7(B)(2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- d. Tank inlets and vents.

10. Other Development. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 4.7.7(E) of this ordinance.
- b. Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 4.7.7(E) of this ordinance.
- c. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 4.7.7(E) of this ordinance.

C. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 4.7.5(C) where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 4.7.7(A) shall apply:

- 1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of forty (40) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- 2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 - a. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be

elevated or floodproofed in accordance with standards in Sections 4.7.7(A) and 4.7.7(B).

- b. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Sections 4.7.7(B) and 4.7.7(E).
- c. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 4.7.5(C) and utilized in implementing this ordinance.
- d. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 14. All other applicable provisions of Section 4.4.7(B) shall also apply.

D. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- 1. Standards of Section 4.7.7(A) and Section 4.7.7(B) and
- 2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

E. FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 4.7.5(C). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 4.7.7(A) and 4.7.7(B), shall apply to all development within such areas:

1. No encroachments, including fill, substantial improvements and other developments shall be permitted unless:
 - a. it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of Floodplain Development Permit (ZCP), or
 - b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
2. If Section 4.7.7(E)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - a. the anchoring and the elevation standards of Section 4.7.7(B)(3); and
 - b. the no encroachment standard of Section 4.7.7(E)(1).

F. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in Section 4.7.5(C) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 4.7.7(A) and 4.7.7(B), all new construction and substantial improvements shall meet the following requirements:

1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two(2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 4.7.7(F)(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 4.7.6(BB)(3) and Section 4.7.7(B)(2).
3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
4. New construction must meet the requirements of Section 4.7.7(B)

G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH)

Located within the Special Flood Hazard Areas established in Section 4.7.5(C), are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Section 4.7.7(A) and 4.7.7(B), all new construction and substantial improvements shall meet the following requirements:

1. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. New construction must meet the requirements of Section 4.7.7(B)

4.7.8 LEGAL STATUS PROVISIONS.

A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted November 13, 1994 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Concord enacted on November 13, 1994 as amended, which are not reenacted herein are repealed.

B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMIT (ZCP)S.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit (ZCP) has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

C. SEVERABILITY

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

D. EFFECTIVE DATE

This ordinance shall become effective November 16, 2018.

ARTICLE 5. SUBDIVISION PLATS, SITE PLANS AND CONSTRUCTION PLANS

Summary: Many new developments require the creation of new lots or subdivisions. Others require detailed plans showing most of the features of the new development, such as buildings, parking lots, landscaping, stormwater ponds, and other features. These are called “site plans.” Subdivisions and site plans are the two most common and complex types of plans for new development. As such, they deserve their own article. All site plans and subdivisions must be designed with the environmental requirements of Article 4 in mind. Before designing a subdivision or site plan, please consult Article 4. Subdivisions are approved in a two-step process. First, preliminary plats are approved (Section 5.2). Preliminary plats must conform to the standards for the creation of new lots found in Section 5.5 and Articles 7 and 9. After approval of a subdivision or site plan-controlled development, technical plans for the installation of roads, sewers, water lines and stormwater control devices must also be approved. These requirements are found in Section 5.6, (Construction Plans). After the installation of the improvements shown in the construction plans, comes the final approval of the subdivision in Section 5.3, (Final Plats). Site plans (Section 5.4, Site Plan-Controlled Development) are required for developments that require hearing by the Planning and Zoning Commission for conditional district zonings or special use permits. If new lots are created, a subdivision and site plan will be required for the same development. Typically, lots are subdivided before commercial construction drawings are generated. The details on the inspection of new utility infrastructure and acceptance of utilities by the City Council are found at Section 5.7 (Construction). References made in this Article to the Manual are to the “City of Concord Technical Standards Manual” or “TSM”.

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5.1. PURPOSE

Changes to the population of an area and use of land affect the demand for infrastructure and services. The purpose of this Article is to promote the safe, functional, and aesthetically pleasing development of property. (See also Article 1 for a further statement of the purpose and intent of this Ordinance.) This Article contains the requirements for subdivision plats (at § 5.2 and 5.3) and site plans (at § 5.4). After obtaining approval of a subdivision plat or site plan, the next step is to obtain approval of construction plans and receive appropriate utility permits (See § 5.6 and Code of Ordinances Chapter 62). Finally, this Article concludes with the general rules and polices governing construction and the acceptance of infrastructure improvements for permanent maintenance by the City in § 5.7. In addition, please see the City of Concord Technical Standards Manual (the Manual) for further requirements about required construction practices and standards. The procedures for obtaining all other development-related permits are found at Article 6. (Permits and Approval Processes).

5.1.1. SUBDIVISION DEVELOPMENT.

- A. **Purpose.** In accordance with NCGS § 160D-801 et seq., the purposes of this Section are to:
 - 1. Ensure necessary infrastructure is adequate to serve areas with new development,
 - 2. Ensure municipal services are available to new development,
 - 3. Ensure recreational opportunities are available to new development,
 - 4. Ensure natural resources are protected,
 - 5. Ensure necessary easements are created and provisions are made to allow for the proper maintenance of infrastructure, and
 - 6. Ensure that offers of dedication of infrastructure are properly made and accepted.

- B. **Introduction.** Subdivisions are divided into two types, minor and major. Each major subdivision is approved in 4 phases: the preliminary plat, the construction drawings, the final plat, which includes offerings of dedications of easement and rights of way, and last acceptance of any offers to dedicate infrastructure for maintenance such as sewer pipes, sidewalks, water lines, streets and others. Minor subdivisions may not require preliminary plats, at the Administrator’s discretion. The City Engineer or his designees approve construction drawings on the recommendation of the Development Review Committee. Final plats are approved by the staff Administrator on the recommendation of the Development Review Committee (DRC). See Table 5.1 below.

Table 5.1: Types of Subdivisions and their Approving Body.

Type of Subdivision(s)	Type of Required Plats	Approved by:
Minor Subdivision	Final Plat	Administrator with Development Review Committee.
Major Subdivision	(1) Preliminary Plat	Administrator with Development Review Committee.
	(2) Final Plat	Administrator with Development Review Committee.
Construction Drawings		Director of Engineering with Development Review Committee
Offers of Dedication and Infrastructure Acceptance		City Council

1. **Minor Subdivisions Defined:** Subdivisions of ten or fewer lots, having no public utility extensions, creating no new public streets and where no lot is taking access from a major or minor thoroughfare.
 2. **Major Subdivision Defined:** All subdivisions other than minor subdivisions.
- C. Plats shall be prepared by registered North Carolina professional engineers, professional land surveyors or other professions approved by the State of North Carolina.

5.1.2. APPLICABILITY

No person shall subdivide land and/or file or record a subdivision plat required by this Ordinance with the Register of Deeds and/or sell or transfer a single lot or a single lot in a subdivision plat required by this Ordinance without making and recording a plat and complying fully with the provisions of this ordinance and all other state and local laws and regulations. No person shall create a subdivision within the jurisdiction of the City of Concord without preparing a plat verifying that all applicable standards are met. Final and preliminary plats shall be prepared for all major subdivisions and combinations of land, including all divisions of a tract or parcel of land into one or more tracts or parcels created for the purpose of sale or building development (whether immediate or future) and all divisions of land involving the creation of a new street or a change to an existing street except the following:

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the lot standards in §5.5;

- B. The division of land into parcels greater than ten (10) acres where no right-of-way dedication is required;
- C. The purchase or acquisition of strips of land by a public entity for the widening or opening of streets or for public transportation system corridors, or for providing utilities; and
- D. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots meet or exceed the lot standards in Article 7 and all of the other standards of this ordinance.

[See also the definition of subdivision in Article 14.]

5.2. PRELIMINARY PLAT

5.2.1 SIZE AND SCALE.

No specific size requirements apply to preliminary plats. Preliminary plats shall be prepared at a standard scale for which one (1) inch equals a distance of one hundred (100) feet or less, such as twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet.

5.2.2. CONTENTS.

The preliminary plat shall depict or contain the information set forth below.

- A. **General Information.**
 - 1. Plat title,
 - 2. Revision number,
 - 3. Legend,
 - 4. Vicinity map depicting the location of the subdivision relative to the municipal limits and the surrounding area,
 - 5. Existing topography with a minimum four-foot contour interval,
 - 6. Boundaries of wetlands, floodways, and one-hundred-year floodplains,
 - 7. Memo describing stream channels as delineated on-site with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadrangle,
 - 8. Existing structures,
 - 9. Existing and proposed built-upon or impervious surface area, given in square feet,
 - 10. Existing and proposed waterbodies, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100 feet, and
 - 11. Anticipated date of final platting.
 - 12. Watershed protection overlay districts,
 - 13. Critical areas of watersheds,
 - 14. Class 1 streams,
 - 15. Class 2 streams,
 - 16. Lakes and impoundments,
 - 17. Jurisdictional wetlands,
 - 18. Undisturbed buffer easements,
 - 19. Vegetated setbacks,
 - 20. Construction limits,
 - 21. Stormwater facility easements,
 - 22. Floodplain protection overlay districts,
 - 23. Floodways,
 - 24. Base flood elevation,
 - 25. All Existing and proposed utilities.

- B. Parcel Data.**
1. Existing tract boundaries shown by a heavy line along with all bearings and distances,
 2. Total number of lots existing before the proposed subdivision,
 3. Legal or deed description of the property,
 4. Proposed lot lines with scaled dimensions and lot numbers,
 5. Lines showing the different phases of the subdivision, if applicable,
 6. Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known), and
 7. Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership.
- C. Right-of-Way and Easement Information.**
1. Proposed streets, sidewalks, and pedestrian ways, including vehicular access points, sidewalks, street names, right-of-way widths, pavement widths, centerline curve radii, proposed functional classifications for streets, sight triangle easements and typical cross-sections,
 2. Existing streets, sidewalks, and pedestrian ways on subject and adjacent properties, including vehicular access points, sidewalks, right-of-way widths and pavement widths,
 3. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, etc., including labels for easement types and widths,
 4. Labeled proposed and existing public and/or private drainage and stormwater controls, including labels for easement types and widths,
 5. Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, buffer yards, etc., including labels for easement types and widths, and
 6. Proposed open spaces, including labels for easements types and widths, and details.
- D. Site Calculations.**
1. Total acreage of tract,
 2. Total number of lots in the subdivision,
 3. Net acreage included in lots,
 4. Number of lots in each phase,
 5. Total acreage of open space, including subtotals for acreage of passive and active open spaces,
 6. Total acreage in street rights-of-way, and
 7. Total linear footage of each individual street center-line, measured from the center of an intersection through the center of the street to the next intersection.

E. Zoning-Related Data.

1. Zoning classification and district lines on the tract and adjoining properties,
2. Building setbacks in table format.

5.2.3. OTHER REQUIRED FORMS AND PLANS.

Depending on the type of development, and the timing of development, other plans may be required.

- A. Completed Street Name and Review Confirmation Sheet,
- B. Completed Stormwater Management Plan as required in Articles 4 and 6.1.
- C. Completed Open Space Provision and Maintenance Plan as required in Article 10 and the location and size of parks, school sites, open space areas, etc. and their ownership, legal instruments showing dedication of open space to a public entity (if necessary), a copy of restrictive covenants regarding open space. Architectural Elevations, in color.
- D. Tree save calculations within open space (if applicable) as required in Section 11.9.

5.2.4. CONSIDERATIONS FOR APPROVAL.

Staff recommendations and/or decisions regarding approval of a preliminary plat shall be based on the following:

Approvals of preliminary plats are administrative in nature and decisions regarding approval of a preliminary plat shall be based on the following:

- A. Whether all applicable information has been submitted confirming that the application adheres to all requirements of this Ordinance; and
- B. Whether the preliminary plat has been prepared in accordance with the standards of this Ordinance; and
- C. The City's ability to provide the proposed development with capacities for utilities, such as wastewater treatment or potable water and other municipal services. Developers are required to install all required utility infrastructure within subdivisions; and
- D. Compliance with street connectivity requirements of Section 10.2.6.

5.2.5. APPROVAL PROCESS.

- A. Subdividers shall submit the following to the Planning Department:
 1. A completed preliminary plat application,
 2. A digital copy of the preliminary subdivision plat in pdf form, uploaded to the Plan Review Online Submittal and Access System as detailed on the Planning and Neighborhood Development

- Department's webpage. Preliminary subdivision plats shall be formatted to meet the size, scale, and content requirements of this subsection,
3. Other required forms and plans listed in subsection (3) above must be submitted as a part of this approval process, and
 4. A review fee as specified in the most recent annual Budget Ordinance fee schedule.
- B. The Development Review Committee shall examine the preliminary plat and make a recommendation to the Administrator.
 - C. Incomplete plats and/or plat applications shall be returned to the applicant and will not be reviewed by City staff until revised and resubmitted.
 - D. The applicant shall revise the proposed plat if necessary in accordance with City staff review comments and upload the revised plat along with any another fees or materials that may be required.
 - E. Preliminary subdivision plats that are in accordance with all applicable standards of this Ordinance and the Manual shall be approved by the Administrator upon concurrence of the DRC.
 - F. Once the Administrator has taken action on a preliminary plat, it shall be made a matter of record as follows:
 1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Planning and Neighborhood Development Department.
 2. Approved plats shall be indexed and filed by Planning.
 3. In the event that the preliminary plat is denied, the petitioner may, in accordance with 160D-1403, appeal by filing an action in superior court seeking appropriate declaratory or equitable relief within thirty (30) days from receipt of a written notice as provided by 160D-403(b).
 - G. The preliminary plat shall be valid for three years from the date of approval. A preliminary plat shall become void if work on furtherance of plat has not commenced within the three-year period and a new application will be required to develop the site. Furtherance of the plat shall be defined as grading or approval of construction plans or erosion and sedimentation control plans. If furtherance of the plat has occurred, the plat will remain valid and in force and may be completed in accordance with the approved plan.
 - H. The Administrator may approve an extension of one (1) year for the preliminary plat upon presentation of evidence that the developer is actively working toward furtherance of the plat (such as being involved in

the development of or review of construction plan documents). The developer shall request the extension in writing and shall include evidence as required by the Administrator. The Administrator may consult with the Director of Engineering or other members of the DRC as necessary, and shall respond in writing, citing reasons for approval or denial of the extension.

5.2.6. ALLOWABLE ACTIVITIES WITH A VALID, APPROVED PRELIMINARY SUBDIVISION PLAT.

- A. Applicants may submit construction plans to the Planning and Neighborhood Development Department.
- B. Applicants may enter into contract(s) to sell some or all of the land subject to the preliminary plat provided that all of the requirements of N.C. Gen. Stat. §160D-807 are met.

5.2.7. REVISIONS OF THE PRELIMINARY PLAT AFTER PLANNING & ZONING COMMISSION APPROVAL.

If the preliminary plat is modified after approval, the applicant shall repeat the process in Subsection 5.2. After consultation with the City's Engineer(s) the Administrator shall be authorized to approve amendments.

- A. Changes to infrastructure and utility design may be approved through the construction plan approval process in 5.6.

5.3. FINAL PLATS

5.3.1. SIZE AND SCALE.

Final plats must meet the size requirements of NCGS § 47-30 and the Cabarrus County Register of Deeds: 18"x24" or may be filed electronically at such time as authorized by Cabarrus County and the City of Concord. Final plats shall be prepared at a standard scale for which one (1) inch equals a distance of one hundred (100) feet or less, such as twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet.

5.3.2. CONTENTS.

All final plats are subject to mapping requirement of NCGS § 47-30. All the contents required for final plats shall show sufficient data to readily determine and accurately reproduce (on the ground) the location, bearing, and length of every boundary, line, right-of-way, and easement (including the radius and other data for curved lines), to an appropriate accuracy, and in conformance with good surveying practice.

A. General Information.

1. Plat title,
2. Revision number,
3. Legend,
4. Vicinity map depicting the location of the subdivision relative to the municipal limits and the surrounding area,
5. Surveyed boundaries of wetlands, floodways, and one-hundred-year floodplains, and
6. Existing and proposed waterbodies, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100 feet.

B. Parcel Data.

1. Existing tract boundaries shown by a heavy line along with all bearings and distances,
2. Legal or deed description of the property may be submitted in a separate document),
3. Proposed lot lines with scaled dimensions, bearings, and lot numbers,
4. Lines showing the different phases of the subdivision, if applicable,
5. Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known),
6. Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership.

C. Right-of-Way and Easement Information.

1. Proposed and existing streets, sidewalks, and pedestrian right-of-ways and easements, including street names and right-of-way widths on subject and adjacent properties,
2. Site triangle easements meeting the standards shown in the *Manual*,
3. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, etc., including labels for easement types and widths,
4. Labeled proposed and existing public and/or private drainage and stormwater controls, including labels for easement types and widths,
5. Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, buffer yards, etc., including labels for easement types and widths, and
6. Proposed open spaces, including labels for easement types and widths.

D. Site Calculations.

1. Total acreage of tract,
2. Total number of lots existing before the subdivision,
3. Total number of lots in the subdivision,
4. Net acreage included in lots,
5. Number of lots in each phase,
6. Total acreage of open space, including subtotals for acreage of passive and active open spaces,
7. Impervious surface area, given in square feet,
8. Proposed utility dedications in linear feet,
9. Total acreage in street rights-of-way, and
10. Total linear footage of each individual street center-line, measured from the center of an intersection through the center of the street to the next intersection.

E. Zoning-Related Data.

1. Zoning classification and district lines on the tract and adjoining properties,
2. Building setbacks in table format.

F. Certificates required on All Final Plats. The following certificates shall be provided and signed as indicated by the signature title.

1. Certificate of Ownership and Offer of Dedication.

I hereby certify that I am owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Concord, and that I hereby submit this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, sidewalks, greenways, rights of way, easements, and/or open space and/or parks, except any of those uses specifically indicated as private, and I further dedicate all sanitary sewer, stormwater drainage and water lines that are located in any public utility easement or right of way and certify that I will maintain all such areas until accepted by the City of Concord, and further that I hereby guarantee that I will correct defects or failure of improvements in such areas for a period of one year commencing after final acceptance of required improvements. Any streets indicated as private shall be open to public use, but shall be privately maintained. Said dedication shall be irrevocable provided dedications of easements for storm drainage, whether indicated as private or public, are not made to the City of Concord but are irrevocably made to the subsequent owners of any and all properties shown hereon for their use and benefit unless specifically designated a drainage easement to the City of Concord.

BY: _____
Owner Date

NORTH CAROLINA
CABARRUS COUNTY

I, _____, a notary public for said county and state, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the ___ day of _____, 20__.

My commission expires: _____

2. Certificate of Survey and Accuracy.

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, Book _____, Page _____, etc.) (other); that the error of closure as calculated by latitudes

and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____, that this map was prepared in accordance with General Statute § 47-30 as amended.

Witness my hand and seal this _____ day of _____ A.D. 20_____.

Surveyor License or Registration Number

3. Certificate of Final Plat Approval.

I hereby certify that this plat is in compliance with the City of Concord Code of Ordinances. This final plat for the _____ Subdivision was approved by the Administrator with the concurrence of the Development Review Committee at their meeting on _____, 2____.

Date _____ Planning and Neighborhood Services Director or Designee

4. Certificate of Acceptance of Offer of Dedication.

I hereby certify that the City Council accepted the offers of dedication shown on this plat by resolution at a meeting of the City Council held on _____, 2____.

Date _____ City Clerk

5. Plat Review Officer Certificate (as required by NCGS § 47-30.2).

State of North Carolina
County of Cabarrus

I, _____, Review Officer of Cabarrus County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____ Date

G. Additional Certificates Required on Final Plats for Major Subdivisions.
The following certificates shall be provided and signed as indicated by the signature title.

1. CERTIFICATE OF CONFORMITY WITH PLANS AND SPECIFICATIONS

CITY OF CONCORD

NAME OF SUBDIVISION

NAME OF STREETS IN SUBDIVISION

SUBDIVIDER

I hereby, to the best of my knowledge, and belief, that all street, storm drainage, water and sewer work to be performed on this subdivision has been checked by me or my authorized representative and conforms with lines, grades, cross-sections, dimensions, and material requirements which are shown on and indicated in the plans which have been reviewed and approved by the Concord Subdivision Administrator or the North Carolina Department of Transportation.

I also acknowledge that falsification of the above certifications may subject me to civil suit and/or criminal prosecution under the General Statutes, including but not limited to, G.S. 14-100 and G.S. 136-102.6 and the Code of Ordinances of the City of Concord.

Signed:

REGISTERED PROFESSIONAL ENGINEER

REGISTRATION NO. DATE

NORTH CAROLINA
CABARRUS COUNTY

I, _____, a notary public for said county and state, do hereby certify that _____

_____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the ___ day of _____, 200__.

My commission expires: _____
Notary Public

2. Certificate of Streets, Water, and Sewer System Approval and Other Improvements.

I hereby certify that all publicly maintained streets, storm drainage systems, water and sewer systems and other publicly maintained improvements and any privately maintained water quality “Best Management Practice” shown on this plat have been designed and installed, or their installation guaranteed, in an acceptable manner and according to specification and standards of Concord and the State of North Carolina.

Date Director of Engineering

H. Additional Certificate Required on Final Plats for Exempt Subdivisions.
The following certificate shall be provided and signed as indicated by the signature title.

1. CERTIFICATE OF EXEMPTION PLAT APPROVAL

I hereby certify that the proposed subdivision is exempt from the City of Concord subdivision ordinance and that the resulting lots meet the minimum standards of the Concord Development Ordinance.

Date Director of Planning and Neighborhood Development or Designee

5.3.3. CONSIDERATIONS FOR APPROVAL

A. No final plat for a major subdivision shall be approved until:

1. A preliminary plat for the property has been prepared and approved in accordance with Subsection 5.2,
2. Construction plans have been approved in accordance with Section 5.6.5, and

3. All applicable permits and encroachments, including but not limited to those required for infrastructure extensions and driveway connections to streets, have been received.
- B. If a preliminary plat is approved subject to conditions or labeling corrections, the final plat shall not be approved until a corrected copy of the preliminary plat has been filed with the Planning and Neighborhood Development Department.
 - C. Minor variations between the preliminary plat and subsequent final plat(s) are permissible, but the Administrator / Development Review Committee may require the applicant to revise the preliminary plat and re-submit it for approval if construction drawings or a subsequent final plat does not adequately match the approved preliminary plat.
 - D. Completion of all required public improvements shown on the City of Concord approved preliminary plat and construction plans, or posting of a performance security in accordance with 5.7.4.6, the Construction section below, and offering a dedication of the improvements to the City.

5.3.4 APPROVAL PROCESS.

- A. A digital copy of the final subdivision plat in pdf form, uploaded to the Plan Review Online Submittal and Access System as detailed on the Planning and Neighborhood Development Department's webpage. Two copies of the final plat shall be submitted to the Planning and Neighborhood Development Department after construction plans have been approved in accordance with Sec. 5.6.5. Additionally, all other required forms and plans listed in this subsection shall be submitted.
- B. The Development Review Committee shall conduct a technical review of the final plat within the time specified in the Manual.
- C. Dedication(s) of property to the City shall be considered by the City Council for acceptance of dedication and maintenance.
- D. In the event that the final plat is denied, the petitioner may, in accordance with 160D-1403, appeal by filing an action in superior court seeking appropriate declaratory or equitable relief within thirty (30) days from receipt of a written notice as provided by 160D-403(b).

5.3.5. ALLOWABLE ACTIVITIES WITH A VALID, APPROVED FINAL PLAT.

Sale or transfer of ownership of lots or parcels of land by reference to a plat of a subdivision PROVIDED THAT such plat has been duly recorded with the Register of Deeds. Final plats not recorded within thirty (30) days of approval are null and void. A subdivider may obtain building permits, zoning compliance permits, and certificates of occupancy.

5.3.6. RECORDATION.

- A. **Plats Not Approved by the City.** No final plat shall be recorded with the Cabarrus County Register of Deeds until the City has approved it in accordance with the provisions of this Article.
- B. **Plats Approved by the City.** All final plats approved by the City in accordance with the provisions of this article shall be recorded with the Cabarrus County Register of Deeds.
- C. **Recorded Plats.** A true original mylar plat as certified by the Register of Deeds must be returned to the Planning and Neighborhood Development Department within 24 hours of recordation. Such plat must show the date and time of recordation, the map book and page number, and the signature of the Register of Deeds official.

5.4. SITE PLAN CONTROLLED DEVELOPMENT

5.4.1. PURPOSE.

The purpose of this Section is to ensure that proposed site plan-controlled development provide adequate information to ensure constructability and compliance with City regulations. These developments are approved in conjunction with a site-plan controlled zoning petition, such as a Planned Unit Development or a conditional district petition, or in conjunction with a Special Use Permit application. In addition, site development review considers the siting of structures and related site improvements to promote harmonious relationships with adjacent developments.

5.4.2. APPLICABILITY.

There are a range of details that may be associated with a conditional zoning: from a “bubble plan” to a more fully designed site plan. The remainder of this subsection outlines the requirements for a variety of levels of details. A site plan designed to the standards below is required to be submitted along with an application for a conditional district rezoning or special use permit. For plans submitted with a lesser degree of detailing, the Planning and Zoning Commission may condition approval on a second hearing to attach a more detailed site plan to the site with applicant consent. Site-plan controlled developments involving residential subdivisions, may also be designed to preliminary plat standards for rezoning hearing.

TABLE 5.2 Types of Site Development and their Approving Bodies

When Required	Review and Approval Process	Approved by:
<u>Conditional district zoning amendments, special use permits</u>	(1) First Review / Approval of Proposed Site Plan	Planning & Zoning Commission
	(2) Technical Site Plan (prepared in accordance with Section 5.6)	Administrator upon the recommendation of the Development Review Committee

5.4.3. SITE PLANS.

- A. **Size and Scale.** No specific size requirements apply to site plans. Site plans shall be prepared at a standard scale for which one (1) inch equals a distance of twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet.
- B. **Contents.** Site plans shall depict or contain the information set forth below:
- C. **Minimum Requirements for All Site Plans.**
 - 1. Title,
 - 2. Development Name
 - 3. Developer and Engineer Contact Information
 - 4. Scale
 - 5. A boundary survey and vicinity map showing the property's total acreage, existing and proposed zoning classification(s), location in relationship to major streets, railroads, the date, and a north arrow;
 - 6. Zoning classification and district lines on the site and adjoining properties,
 - 7. Building setbacks.
 - 8. All existing easements, reservations, and rights-of-way;
 - 9. Existing and proposed points of access to public streets and to adjacent property
 - 10. Location of 100 year floodplains and location of proposed stream buffers as specified in Article 4
 - 11. General parking and circulation plans
 - 12. Additional data and information as specified in Article 9, if applicable
 - 13. Existing tract boundaries shown by a heavy line along with all bearings and distances,
 - 14. Legal or deed description of the property,
 - 15. Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known.) ,
 - 14. Revision number and date,
 - 15. Legend,
 - 16. Existing topography with a minimum four-foot contour interval,
 - 17. Boundaries of wetlands, floodways, and one-hundred-year floodplains (These boundaries shall be surveyed in the final site plan.), Base Flood Elevations, watershed protection overlay districts, critical areas of watersheds, Class 1 streams, Class 2 streams, lakes and impoundments, jurisdictional wetlands, stream buffers,

16. Existing and proposed areas for structures,
 - a. Elevations, if known, or precedent imagery
 - b. Proposed use of all land and structures including the number of residential units and square footage of nonresidential development;
15. Existing and proposed impervious surface area and/or limit, given in square feet,
16. Existing and proposed waterbodies, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100 feet, and
17. Anticipated date of final platting, if relevant.
18. Proposed and required screening and landscaping as specified in Article 11;
 - a. Undisturbed buffer easements,
 - b. Vegetated setbacks,
 - c. Details
 - d. Any proposed tree save areas

C. Additional Details that may be provided by the applicant or required by Staff or the Planning and Zoning Commission

The list of details below is not designed to be all-inclusive, but rather to serve as examples that may be required in the evaluation of a site plan-controlled rezoning or special use permit request.

1. Construction limits,
2. Stormwater facility easements,
3. All existing and proposed utilities.
4. All proposed utility connections.
5. Proposed lot lines with scaled dimensions and lot numbers,
6. Lines showing the different phases of the subdivision, if applicable,
7. Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership,
8. Proposed streets, sidewalks, and pedestrian ways, including vehicular access points, sidewalks, street names, right-of-way widths, pavement widths, centerline curve radii, site triangles at intersections, proposed functional classifications for streets, and typical cross-sections,
9. Existing streets, sidewalks, and pedestrian ways on subject and adjacent properties, including vehicular access points, sidewalks, right-of-way widths and pavement widths,
10. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, etc., including labels for easement types and widths,
11. Labeled proposed and existing drainage and stormwater controls, including labels for easement types and widths,

12. Labels for buffer easement types and widths, and
13. Proposed open spaces, including labels for easements types and widths.
14. For PUD, TND, TOD or MX districts and conditional uses, total acreage of open space, including subtotals for acreage of passive and active open spaces.
15. Memo describing stream channels as delineated on-site with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadrangle,
16. Traffic Impact Analysis (TIA) in accordance with Chapter 52 of the City Code of Ordinances, and Article 8 of the Technical Standards Manual (TSM).
17. Fire and Life Safety Plan that includes fire apparatus turning overlay, hydrant locations, and hose pull lengths.
18. Maximum proposed building height.
19. Construction type and materials
20. Size of largest building
21. Additional plans, such as acoustical study, illumination/light impact study, if required by the administrator.
22. Additional site details: trash enclosure locations, mailbox clusters, bus shelters, transit stops, loading spaces, typical lot detail.

5.4.4. CONSIDERATIONS FOR APPROVAL.

Recommendations and decisions regarding the approval of a site development plan shall be based on the following:

- A. Whether all applicable information has been submitted confirming that the application adheres to all requirements of this Ordinance; and
- B. Whether the site plan has been prepared in accordance with the standards of this Ordinance; and
- C. The City's ability to support the proposed development with utilities and other municipal services.
- D. CDO standards for special use permits or rezoning applications as applicable.

5.4.5. APPROVAL PROCESS.

A. Developers shall submit the following to the Planning and Neighborhood Development Department:

1. A site-plan controlled zoning district application or special use permit application, a site plan adhering to the requirements set forth in this section (5.4), and any supplemental documentation that may be required by City Staff or the Planning and Zoning Commission.
2. A review fee as specified in the most recent annual Budget Ordinance for a site-plan controlled zoning district application or a special use permit.

3. Digital Information. A digital vector file of all impervious surfaces using the coordinate system specified in the Manual or alternatively, a spreadsheet listing each impervious surface as specified in the Manual.

- B. The Development Review Committee shall review the site plan and make a recommendation to the Administrator.
- C. Incomplete site plans shall be returned to the developer and will not be reviewed by City staff until revised and resubmitted.
- D. The developer shall revise the proposed site plan if necessary, in accordance with review comments and re-submit the revised plan along with any other materials that may be required.

5.4.6. RECORD OF APPROVAL.

- A. For Special Use Permits, PUD, TND, TOD, or MX Districts and all Conditional district or site-plan controlled zonings, the Administrator shall present site plans that have been approved by City staff to the Planning & Zoning Commission. Once the Planning & Zoning Commission has taken action on the zoning petition or special use permit application and the corresponding site plan, it shall be made a matter of record as follows:
 - 1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with Planning and Neighborhood Development.
 - 3. Approved site plans shall be indexed and filed by Planning and Neighborhood Development.

5.4.7. EXPIRATION of APPROVAL

- A. Site plans submitted in conjunction with a conditional district zoning application or special use permit do not expire, but may require amendment if thresholds set forth in the CDO are exceeded.

5.4.8. ALLOWABLE ACTIVITIES WITH A VALID, APPROVED SITE PLAN.

- A. Developers may submit a preliminary plat and/or construction plans to the Planning and Neighborhood Development Department.

5.4.9. REVISIONS OF SITE PLANS AFTER APPROVAL.

If the site plan is modified after the Planning & Zoning Commission approves it, the applicant shall repeat the process in Subsection 5.4 unless the Administrator or his/her designee has been authorized to approve the amendments and approves those amendments. After consultation with the Development Review Committee, the Administrator shall be authorized to approve the following amendments:

- A. Changes in the location, size, or configuration of not more than ten percent (10%) of the total gross square floor area of approved buildings, up to 50,000 square feet, provided that all buildings comply with the requirements of this ordinance and the total number of lots is not increased;
- B. Changes in the location, size, or configuration of open space equivalent to not more than ten percent (10%) of the approved gross open space acreage, provided that the percentage of the subdivision gross land area in open space is not reduced; or
- C. Changes in the location or configuration of proposed streets, driveways and/or parking lots equivalent to not more than ten percent (10%) of the approved total street length, or parking lot area, provided that the number of external access points is not decreased and the minimum street connectivity ratios are maintained.
- D. Changes to infrastructure and utility design shall be approved through the construction plan approval process in 5.6.
- E. If a detailed site plan is not submitted as a component of a conditional district rezoning, City Staff is authorized to approve preliminary plats and construction drawings that adhere to conditions and development standards set forth by the zoning approval. If a detailed site plan is submitted, City Staff is limited to approving variations that do not exceed the thresholds in this subsection (5.4.10) and subsection 3.2.8.1. The Planning and Zoning Commission or City Council may establish that a non-detailed site plan is subject to re-hearing as a condition of the rezoning petition if the applicant consents.

5.5. LOT STANDARDS

5.5.1. PURPOSE.

This Section establishes standards to guide the design and review of proposed developments, involving the layout or development of lots and their relationship to streets and other public facilities. Lot size and density shall be determined based on the current zoning district of the development as provided in Articles 7 and 9. Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided along with adequate room for required setbacks (see Article 7, Table 7.7-1.) and buffer yards as applicable (see Article 11).

5.5.2. APPLICABILITY.

The provisions of this subsection shall apply to any newly created or proposed lot or parcel resulting from a subdivision of land as provided for in this Article.

5.5.3. ACCESS.

- A. Every lot resulting from a subdivision of land as provided for in this Article shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided below.
- B. **Exceptions.**
 - 1. Parcels within nonresidential subdivisions and developments, provided that adequate paved access is available for emergency and public safety vehicles and access;
 - 2. Town home lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the town home lots;
 - 3. Lots with vehicular access to privately maintained alleys, created within the provisions of this Ordinance; and
 - 4. Lots fronting on approved private streets.
- C. **Street Frontage.** Lots shall be designed with adequate frontage for the purpose of providing direct physical access to the property from public streets for vehicles and utilities and for public safety equipment. For proposed subdivisions with frontage on a thoroughfare street, the maximum number of lots to be created shall be limited to five (5) lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.
- D. **Restrictions on Block and Cul-de-sac Lengths.** The purpose of this subsection is to discourage long blocks lined with homes and other buildings, which reduces street connectivity and diminishes the efficiency of public and safety services, while increasing distances between residences and non-residential destinations or public gathering places. In the AG, RE, I-1, and I-2 zoning districts there shall be no maximum block length. In all other

zoning districts, the maximum length of any blocks shall be as stated in Section 10.1.3. Cul-de-sac lengths shall be as stated in the Manual. Block length shall be measured from the centerline of an intersecting street to the centerline of the next intersecting street or the center point of the terminus of the street..

5.5.4. GENERAL EXCEPTIONS FOR CERTAIN KINDS OF LOTS.

- A. **Corner Lots.** Side lot lines of lots abutting a public or private right-of-way shall (to the extent practicable) run at right angles to the right-of-way line, or in the case of cul-de-sacs or curvilinear street rights-of-way, radial to the curve.
- B. **Cul-de-Sac Lots.** A lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:
 - 1. Lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet, whichever is greater;
 - 2. Lot area equal to or greater than the minimum lot area (if one is specified); and
 - 3. The minimum required lot width at the actual front setback of the primary structure and not necessarily at the minimum front setback set forth in this Ordinance.
- C. **FLAG LOTS.**
 - 1. **Justification for Flag Lots.** Upon recommendation of the DRC, the Administrator may approve flag lots if evidence is provided that physical hardships prevent development of land using conventional lot design and all other provisions of this ordinance are met..
 - 2. **Minimum Pole Widths.** The minimum width of the "pole" portion of a flag lot shall be twenty-two (22) feet for residential lots and thirty (30) feet for non-residential lots. The "pole" portion of the lot shall have maximum length not to exceed 250 feet.

5.5.5. OPEN SPACES.

Dedicated open space shall comply with the requirements of this Ordinance in addition to the standards set forth herein. Articles 4 and 6.5 [new Article 10].

5.5.6. PERIMETER BUFFER YARD FOR RESIDENTIAL SUBDIVISIONS (THESE STANDARDS SHALL APPLY TO MAJOR SUBDIVISIONS ONLY).

- A. A buffer yard shall be required along the perimeter of a residential subdivision in order to separate residential lots from:
 - 1. Abutting a thoroughfare; and
 - 2. Abutting non-residential uses.

- B. The buffer yard for abutting non-residential uses shall be designed and landscaped per Article 11 of this Ordinance. The buffer yard for abutting a thoroughfare shall be a Type D buffer as set forth in Article 11 of this Ordinance.
- C. All required buffer yards shall be platted as common areas and may be included as “open space” subject to the standards and criteria as set forth in Articles 10 and 11 of this Ordinance.

5.6. CONSTRUCTION PLANS

5.6.1. PURPOSE.

The Purpose of this section is to ensure that any development involving new building, parking, landscaping, utilities, buffers, etc. is done in accordance with all applicable City and State codes and standards.

5.6.2. APPLICABILITY.

No person shall develop, grade, or construct buildings or structures or extend or modify any infrastructure related to any subdivision or site development without making an application for, and receiving approval of, a site plan or subdivision plat and complying fully with the provisions of this ordinance and all other state and local laws and regulations.

5.6.3. SIZE AND SCALE.

Construction plans shall be prepared on 24-inch by 36-inch white paper at a horizontal scale of one (1) inch equals a distance of forty (40) feet and a vertical scale of one (1) inch equals a distance of four (4) feet.

5.6.4. CONTENTS.

Construction plans shall depict all drawings and specifications needed to result in the construction of improvements required by the Code of the City of Concord and Concord Technical Standards Manual as adopted by the City. At a minimum, construction plans shall legibly depict or contain the information set forth below.

- A. General information.
 - 1. Development name,
 - 2. Developer and engineer contact information,
 - 3. Distinct title and number for each sheet,
 - 4. Revision number(s) and date(s),
 - 5. Scale,
 - 6. North arrow,
 - 7. Legend,
 - 8. Vicinity map depicting the location of the development relative to the municipal limits and the surrounding area,
 - 9. Licensed professional’s seal and signature as required by NC General Statutes,
 - 10. Elevation control markers and monuments,
 - 11. Existing topography with a minimum four-foot contour interval,
 - 12. Labeled boundaries of waterbodies, wetlands, floodways, and one-hundred-year floodplains
 - 13. Existing and proposed impervious surface areas, given in square feet,
 - 14. All existing and proposed wells, railroads, bridges, culverts, storm drains, and natural features on within 200 feet of the development, and

15. Lines showing the different phases of the development, if applicable.
16. Memo describing stream channels as delineated onsite with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadrangle
17. Existing and proposed structures.
18. Construction limits
19. Anticipated date of final platting (if applicable)
20. Proposed lot lines with scaled dimensions and lot numbers (if applicable)
21. Size of largest building
22. Fire apparatus turning radius overlay
23. Solid waste turning radius overlay
24. Height of tallest building
25. Building materials and construction style
26. Related zoning and preliminary plat case numbers (if applicable)
27. Zoning conditions (if applicable)

B. Parcel Data.

1. Names and property identification numbers of adjoining property owners and subdivisions and/or other developments, both of record and proposed, if known, and
2. Location and size of parcels supporting community services, such as parks, schools, open space areas, etc. and their ownership (if any are located in the site planned development),
3. Existing tract boundaries shown by a heavy line along with all bearings and distances
4. Existing and proposed easement locations.

C. Utility and Drainage Information.

1. Utility location service contact information,
2. Sheet(s) containing both plan views of all proposed waterlines with a center-of-pipe profile of all waterlines with diameters greater than twelve (12) inches at a scale of one inch to forty feet,
3. Sheet(s) containing both plan views of all proposed sanitary sewer lines with a center-of-pipe profile of all proposed sanitary sewer lines at a scale of one inch to forty feet horizontal and one inch equals four feet vertical,
4. Sheet(s) containing both plan views of all proposed stormwater pipes and channels with a center-of-pipe/channel profile of all proposed stormwater pipes and channels at a scale of one inch to forty feet horizontal and one inch equals four feet vertical,
5. And at each crossing of another utility,
6. Existing utilities on and within 100 feet of the development,

7. Note referencing Chapter 62 of the Code of the City of Concord, the WSACC Standard Specifications, and State requirements,
8. Waterline stationing,
9. Sanitary sewer line stationing,
10. Sanitary sewer invert elevations and slopes,
11. Manhole diameters, and
12. Sufficient details.

D. Transportation Information.

1. Proposed street names and State road numbers,
2. Proposed street stationing,
3. Sheet(s) containing both plan views of all proposed streets with a center-of-street profile of all proposed streets, and
4. Traffic control devices.
5. Ramps required by the Americans with Disabilities Act (ADA).

E. Right-of-Way and Easement Information.

1. Proposed streets, sidewalks, and pedestrian ways, including street names, right-of-way widths, vehicular access points, sidewalks, pavement widths, centerline curve radii, proposed functional classifications for streets, typical cross-sections, sight triangles, street centerline stationing.
2. Existing streets, sidewalks, and pedestrian ways on subject and adjacent properties, including right-of-way widths, vehicular access points, sidewalks, pavement widths, center-line distance of each street measured from the center of intersection to the next intersection and centerline curve radii,
3. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, maintenance and access and etc., including labels for easement types and widths,
4. Labeled proposed and existing drainage and stormwater controls, including labels for easement types and widths,
5. Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, etc., including labels for easement types and widths, and
6. Proposed open spaces, including labels for easement types and widths.

F. CALCULATIONS.

1. Total number of lots in the subdivision, if applicable,
2. Number of lots in each phase, if applicable,
3. Total acreage of open space, including subtotals for acreage of passive and active open spaces, along with required tree preservation areas as specified in Article 11 (if applicable),
4. Total linear footage of each individual street,
5. Total linear footage of each diameter size of waterline,

6. Peak potable water demand in gallons per minute,
7. Total linear footage of each diameter size of sanitary sewer line,
8. Peak wastewater generated with estimated inflow and infiltration for a 5-year storm event in gallons per minute,
9. The information stated in the Manual for pump station cycle times, storage and associated pump curves,
10. Pavement design calculations and associated AASHTO Soil Classification information for streets to be dedicated to a government.

G. Electrical Utility Information.

Electrical riser diagram for service entrance requirements as shown in the *Manual*. (For City owned electrical utilities only.)

H. Other Required Forms and Plans. Depending on the type of development, and

the timing of development, other plans may be required.

1. Approved Street Name and Review Confirmation Sheet,
2. Approved Stormwater Management Plans as required in Article 4.]
3. Approved Open Space Provision and Maintenance Plan as required in Article 10.], and the location and size of parks, school sites, open space areas, etc. and their ownership, legal instruments showing dedication of open space to a public entity (if necessary), a copy of restrictive covenants regarding open space.,
4. Completed Street and Driveway access permit application: approved driveway permit necessary prior to Construction Drawing approval.
5. Completed Traffic Impact Study (TIS), if required.
6. Copy of the approved preliminary subdivision plat, if applicable.
7. Completed architectural plans for multi-family and non-residential development in accordance with Article 7.
8. Third party approvals.
9. Fire and Life Safety Department Confirmation of Acknowledgement and Acceptance

5.6.5. CONSIDERATIONS FOR APPROVAL.

- A. **Conformity with Approved Plat.** The number and configuration of lots on construction plans for subdivisions shall match the number and configuration of lots on the subdivision's approved preliminary plat.
- B. **Third Party Permits.** Third party permits, such as driveway permits, utility permits, environmental permits, sedimentation and erosion control permits, must be approved prior to release of the construction drawings for construction.

5.6.6. APPROVAL PROCESS FOR CONSTRUCTION DRAWINGS.

A. Developers shall submit the following to the Planning and Neighborhood Development Department:

A digital copy of the construction plans (in pdf form) meeting the size, scale, and content requirements of this subsection and the Manual. The plans shall be uploaded to the Plan Review Online Submittal and Access System as detailed on the Planning and Neighborhood Development Department's webpage.

1. Other Required Forms and Plans.
2. Completed Traffic Impact Study in accordance with Article 8 of the TSM and Section 50-125 of the City of Concord Code of Ordinances.,
3. Completed utility permit applications in accordance with Sec. 62-77 of the Code of the City of Concord.
4. A review fee as specified in the most recent annual Budget Ordinance.

B. The Development Review Committee shall examine and review the construction plans.

C. Incomplete plans shall be returned to the developer and will not be reviewed by City staff until revised and resubmitted.

C. The developer shall revise the proposed plan if necessary, in accordance with Development Review Committee comments and re-submit revised copies along with any another fees or materials that may be required.

E. Once the construction plan has been approved by the Director of Engineering or an individual under his/her direct control, it shall be made a matter of record as follows:

1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Engineering Department.
2. Approved plans shall be indexed and filed by the Engineering Department.

5.6.7. REVISIONS OF THE CONSTRUCTION PLAN AFTER APPROVAL.

A. Deviations from the approved engineering plans and specifications or changes in site conditions shall be submitted in writing by the engineer to the Director of Engineering for written approval prior to any further construction or installation activity.

B. Modifications to the approved plans requiring federal, state, and local regulatory approval shall be the responsibility of the owner, developer, or their contractor and/or engineer. The owner / developer shall assume full responsibility for acquiring the applicable regulatory permits and approvals, prior to further construction or installation activity.

C. The developer shall hold the City and its officers and agents harmless of any

responsibility or liability, upon the failure of the developer or owner to obtain required regulatory approvals prior to further construction activity and the developers' failure to adhere to regulatory requirements during the construction activities.

5.7. CONSTRUCTION

5.7.1. PURPOSE.

The purpose of this section is to ensure that the construction of infrastructure is properly installed, inspected and documented.

5.7.2. PRE-CONSTRUCTION RESPONSIBILITIES.

- A. Prior to beginning construction, the applicant shall arrange a pre-construction meeting with the City of Concord for the purpose of coordinating construction activities.
- B. It shall be the responsibility of the applicant to notify the Director of Engineering (or his/her designee) at least 48 hours prior to the commencement of construction of improvements the amount of time specified in the Manual.

5.7.3. INSPECTION.

- A. Inspections shall occur at each of the following stages of construction to ensure conformity with the approved plans, specifications, and standards or as otherwise determined through an owner contract or development improvement agreement.
 - 1. Site grading and erosion control completion,
 - 2. Underground utility installation,
 - 3. Subgrade preparation prior to aggregate or asphalt base course installation,
 - 4. Immediately prior to aggregate base compaction,
 - 5. Concrete curb and gutter installation,
 - 6. Bituminous intermediate course(s),
 - 7. Subgrade preparation prior to sidewalk and street tree installation, and
 - 8. Final surfacing course prior to seal coat.
- B. Agents of the City and state may observe at any time during the progress of work.
- C. Where inspections are made by individuals or agencies, other than the Director of Engineering, (or his/her designee), the applicant shall provide the Director of Engineering with written reports of each final inspection.

All inspections of waterline extensions and sanitary sewer extensions shall be conducted in accordance with Section 62-86 of the Code of the City of Concord. All inspections of stormwater control and treatment

infrastructure shall be conducted in accordance with the *Manual*, Chapter 60 of the Code of Ordinances and Article 4.

5.7.4. CONSTRUCTION RESPONSIBILITIES.

- A. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements of this Ordinance, and, where applicable, the requirements and authorization of the appropriate state agency, utility company, or local franchisee.
- B. All installations of improvements shall conform to the approved construction plans. In the event that actual construction work deviates from that shown on the approved construction plans, such unapproved work shall constitute a violation of this Ordinance and shall be remedied in accordance with Section 1.5.
- C. The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.
- D. If necessary, the applicant shall be required to correct the installed improvements to conform to the approved construction plans. In addition, the Administrator may take such other actions as may be deemed appropriate including, but not limited to, revocation of permits already issued and/or withholding of future approvals and permits until the violation is corrected.

E. Contracts for Future Installation of Improvements

If developments cannot be completed, under certain conditions the City MAY accept a contract and bond for a delay in the installation of certain required improvements in accordance with NCGS § 160D-804(g) and as detailed below.

- 1. The Administrator may delay the requirement for the completion of required improvements (excluding improvements required to provide for emergencies) prior to recordation of the final plat if the applicant enters into an Agreement in which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than two (2) years following the date upon which the final plat is recorded. Such period may be extended for up to an additional one (1) year period upon its expiration at the discretion of the Administrator.
- 2. At the discretion of the Administrator, the Administrator may recommend an Agreement with the developer for a development containing multiple final plats that specifies the timing and sequence of street, water, wastewater, drainage, and park or open space dedication and improvements. Notwithstanding any

provision in this Ordinance to the contrary, the Infrastructure Development Agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

2. The City Attorney and City Council shall approve all Infrastructure Development Agreements as a legislative decision.

F. Performance Security for Improvements

1. Whenever the Administrator determines that improvements cannot be completed or installed due to adverse weather conditions or other factors determined to be reasonable by the Administrator, or pursuant to Section 5.7.4(G)(6) below or to an established city policy, a developer may enter into an Agreement with the City. The developer shall be required to provide sufficient security to ensure completion of the required public improvements or private stormwater control measure. The security shall be in the form of an irrevocable letter of credit, surety bond or cash escrow, or another form of guarantee that provides equivalent security.
2. The Director of Engineering shall approve the surety bond, letter of credit or cash escrow in an amount that totals up to 125% of the cost of the improvements in the approved construction plan. The applicant shall provide either a bid from their contractor(s) of record for the Director of Engineering to review and approve or an estimate completed by a professional engineer with reference to average prices for the local market before the amount of the bond is established. The dollar amount shall be sufficient to cover all promises and conditions contained in the Agreement.
3. If security is provided in the form of a cash escrow, the applicant shall deposit with the City Finance Director a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Engineering.
4. The cash escrow account shall accrue to the City for administering the construction, operation, and maintenance of the improvements.
5. Upon completion, as set forth in Section 5.7.9 below, of all improvements as covered by the Agreement, the Director of Engineering (or his/her designee) shall inspect the work. If the Director determines that the work is satisfactory and complete, the security shall be released. The Director shall also require evidence from the developer that all contractors have been paid in full prior to the release of the performance security. The Director shall permit one reduction of the letter of credit or cash escrow upon approval.

6. Without limiting the above, for public roads, streets, sidewalks, street trees, and rights of way, the Director of Engineering may collect a performance guarantee to ensure completion, provided that such project shall not be considered complete except as provided in Section 5.7.9.

G. Payments - In Lieu of Installation for Curbing, Guttering and Sidewalks Improvements.

1. In certain cases, upon the request of the applicant, the City may relieve the applicant from the requirement to install curbing, guttering or sidewalks, in return for a payment-in-lieu of the installation. The application procedures and requirements are explained in this sub-section.
2. A written application for a sidewalk, curb, and gutter exception is submitted to the office of the Development Services Department demonstrating:
 - A. That the project meets one or both of the following scenarios:
 - B. Where the topography does not allow for the reasonable or practical installation of sidewalks, curbs, and gutters; and/or
 - C. In instances where the ultimate right-of-way width is not yet determined, and/or
 - D. The developer provides an alternate walkway, trail or greenway that is approved by the Administrator following the recommendation of the Development Review Committee; and
 - E. The developer agrees to pay a fee-in-lieu of the required installation and to provide any required rights-of-way and/or easement dedications.
 - F. The “sidewalk, curb and gutter fee” is set annually in the adopted budget ordinance. The fee is based on actual costs for typical construction during the previous fiscal year, times 110% to cover administrative costs and the cost of inflation.
 - G. The fees collected are held in a Sidewalk, Curb, and Gutter Reserve Account (the “Reserve Account”) administered by the City of Concord.
 - H. The Reserve Account is used only for the construction of sidewalks, curbs, and gutters at locations within the same Sidewalk Maintenance Routes/ Zones as the project where the exception was granted.
 - I. **Failure to Comply with Agreement Terms.** If an Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms

of the Agreement, the Administrator and/or the Director of Engineering may:

1. Declare the Agreement to be in default prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
2. Obtain funds from the surety and complete the public improvements by itself or through a third party;
3. Assign its right to receive funds from the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or
4. Exercise any other rights available under the law.

5.7.5. AS-BUILT DRAWINGS AND RECORD DRAWINGS.

As-built drawings and record drawings shall document the location of the items required in Sec. 5.6.4. and shall be prepared and delivered in accordance with Sections 60-86, 62-88 and 62-89, respectively of the Code of the City of Concord, and stormwater control facilities required by the Concord Development Ordinance Section §4.4, regardless of whether the City is accepting the infrastructure for public maintenance or not.

5.7.6. CONSIDERATIONS FOR APPROVAL AND ACCEPTANCE.

Approval of the installation of improvements by the Director of Engineering shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair or operation. Such acceptance shall be subject to the provisions of this Ordinance concerning the acceptance of each type of improvement.

1. **Certificates.** The following certificates shall be provided and executed:
2. **CERTIFICATE OF CONFORMITY WITH PLANS AND SPECIFICATIONS**

CITY OF CONCORD

 NAME OF DEVELOPMENT

 NAME OF STREETS IN DEVELOPMENT

 DEVELOPER

I hereby certify to the best of my knowledge, and belief, that all street, storm drainage, water and sewer work to be performed on this site plan development has been checked by me or my authorized representative and conforms with lines, grades, cross-sections, dimensions, and material requirements which are shown on and indicated in the plans which have been reviewed and approved by the Concord Development Ordinance Administrator or the North Carolina Department of Transportation.

I also acknowledge that falsification of the above certifications may subject me to civil suit and/or criminal prosecution under the General Statutes, including but not limited to, G.S. 14-100 and G.S. 136-102.6 and the Code of Ordinances of the City of Concord.

Signed:

 REGISTERED PROFESSIONAL ENGINEER

 REGISTRATION NO. DATE

NORTH CAROLINA
 CABARRUS COUNTY

I, _____, a notary public for said county and state, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the ___ day of _____, 200__.

My commission expires: _____

 Notary Public

5.7.7. APPROVAL PROCESS.

The City shall inspect all improvements required by these regulations in accordance with this Ordinance prior to acceptance. The City shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the City has accepted the street or other improvement. When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Director of Engineering, the City Council may accept the improvements for maintenance by the City, except that this shall not apply to improvements maintained by another entity.

5.7.8. PROCEDURE FOR ACCEPTANCE

1. The developer may call for an inspection of these improvements and for official acceptance of any infrastructure for maintenance by the public by the City Council
2. If all of the conditions of section 5.7.9. below have been met, the Administrator shall put the matter on the agenda for consideration at a future City Council meeting.
3. If accepted, a written acknowledgment of acceptance or conditioned acceptance shall be forwarded to the developer by the administrator.

5.7.9. CONDITIONS OF APPROVAL.

The following conditions shall be met before the City Council of the City of Concord will consider accepting infrastructure improvements:

- A. **Rights-of-Way.** Property owner(s) must offer dedications of rights-of-way of a width approved by the City free of charge and clear of all encumbrances. The specific standards for acceptance of easements shall be subject to the *Manual* and any other adopted policy or manual of the City. All easements shall be in full compliance with this Ordinance prior to acceptance. The City will not accept dedication of any street, road, sidewalk, or public right of way, and no street, road, or public right of way shall be considered complete, until seventy five percent (75%) of the lots in the applicable permitted phase map have been constructed.
- B. **Utilities / Streets / Stormwater Utilities.** When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Director of Engineering, the City Council may consider acceptance of the improvements for maintenance by the City. All infrastructure including street signs and markings under consideration for addition to the city system shall be in an acceptable state of maintenance as determined by the Director of Engineering upon

the recommendation of the Development Review Committee. The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public way or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property or onto other land in the City is prohibited. The as-built drawings shall include all infrastructure, including those portions of roads and drainage that may be considered private in nature.

- C. **Timing.** All offers of dedication via a subdivision plat or contained on a site plan shall not be accepted until the final plat is approved by the Administrator or Planning & Zoning Commission, and all infrastructure and/or improvements are completed and “as-built” drawings are submitted to the Director of Engineering, and any other conditions imposed by the City Council are met. All utilities and/or infrastructure in a geographic area shall be accepted simultaneously. This sub-section shall not apply to improvements maintained by another entity.
- D. **Private Facilities.** Private streets, roads, travel aisles, parking lots, alleys serving residential, multifamily, commercial, and industrial developments shall not be eligible for acceptance to the City’s street system unless they are designed, built, inspected, and dedicated in accordance with the *Manual* and the requirements of this Ordinance. These provisions shall not relieve the developer or the developer’s agent or contractor of responsibility in notifying the City of completed work and the developer’s request for a City inspection. The agency having jurisdiction shall inspect and approve all completed work prior to the release of any performance guarantees.

5.7.10. POST-CONSTRUCTION RESPONSIBILITIES.

- A. The developer shall be responsible for the material and craftsmanship of all donated infrastructure for a warranty period of one year from the date of ACCEPTANCE in accordance with Section 5.7.8 of the project or the phase of the project.
- B. The City shall have the right to increase the warranty period for atypical construction materials or construction techniques or sub-standard construction
- C. The warranty period shall begin on the date that the City Council accepts ownership of the modification or extension.
- D. This warranty shall include any damages that may arise from construction by other utility companies or homebuilders.
- E. The City shall relieve the developer of their obligation under the warranty

period by performing a one-year warranty inspection, or an inspection at the end of an extended warranty period. Inspections shall include, but are not limited to, a video recording of the interior of all sanitary sewer outfall mains, collection mains, and laterals on a CD, DVD, or equivalent successor media and a recording of the interior of all storm sewer mains, outfalls, and appurtenant items, both within street rights-of-way and in those areas considered to be privately owned and maintained on a CD, DVD, or equivalent successor media. The entire storm drainage system shall be cleaned and be free of mud and debris prior to the video inspection so all defects shall be clearly visible. The mud and debris shall not be discharged into streams or waterbodies, but shall be captured and disposed in a manner acceptable to the City, County, and NCDENR.

F. Any and all defects found at this time that do not conform to the City's standards or this ordinance shall be repaired or replaced at the developer's expense.

G. Any defects in workmanship and/or materials shall be repaired to the satisfaction of the Administrator or Director of Engineering. Developers are required to make all necessary repairs immediately.

ARTICLE 6 PERMITS AND APPROVAL PROCESSES

Summary: *This Article describes how to obtain permits other than subdivision plat, site plan, and sign permits under the Concord Development Ordinance.*

Typically, the permit approval process involves four steps -

- *First, an application is submitted to the Administrator. Section 6.1 lists the submittal requirements for different types of applications.*
- *Second, the Administrator determines whether the application is complete.*
- *Third, the application is forwarded to the appropriate board, commission and/or staff member to approve, approve with conditions, or deny the plans.*
- *Fourth, a permit is issued to the applicant once plans are approved.*

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6.1. ADMINISTRATIVE PERMITS

6.1.1. PURPOSE.

Administrative permits are required for the health, safety and general welfare of the public. The purpose of this Section is to describe procedures for permits, which do not require quasi-judicial, legislative notice, or a public hearing. A public hearing is not required for permits set forth in this Section for one or more of the following reasons:

- A. If required, public hearings have already been conducted relating to the permit application. The permit application procedure was designed to ensure that the proposed use complies with a previously approved subdivision plat, site plan, specific plan, comprehensive plan amendment, or conditional rezoning (e.g., zoning clearing, certificate of occupancy).
- B. The proposed use is permitted by right in the applicable zoning district (e.g., zoning clearance, certificate of occupancy).

6.1.2. APPLICABILITY.

The provisions of this Section shall apply to the following any site plan or final site plan or required administrative permit as set forth in § 6.1 of this Ordinance. Some permits may not be applicable for every development. Below is the list of the Administrative permits along with a brief description:

- 1. Zoning Clearance Permit - Obtained at the point where the applicant is ready begin construction of the project. (May include stormwater installation and grading permit approval).
 - A. Stormwater Installation / Grading Permit - Obtained for the purposes of preliminary grading work for development or other land disturbing activities as described in Art. 4 as a subset of a Zoning Clearance Permit.
- 2. Certificate of Compliance Permit - Obtained at the point where construction is completed and states that the project complies with the City standards.
- 3. Temporary Electric Power Permit - Typically obtained for the purposes of establishing temporary power for a construction site.
- 4. Temporary Use Permit - Obtained for any structure or business that is temporary in nature.
- 5. Sign Permit (see Art. 12) - Obtained anytime a sign is erected for the purposes of advertising.
- 6. Erosion and Sedimentation Control Permits (see § 4.5. THESE PERMITS ARE ISSUED ONLY BY THE STATE OF NORTH CAROLINA)
- 7. Building Permit (THESE PERMITS ARE ISSUED ONLY BY CABARRUS COUNTY.)

-
8. Driveway Permit (Technical Standards Manual Article III) - Obtained for any access points and driveways planned to connect to a publicly-maintained street within the corporate limits and extraterritorial jurisdiction of the City of Concord.
 9. Wastewater Collection Permit (City Code Chapter 62) - Obtained prior to construction for any extension or modification of the City's wastewater collection system.
 10. Water Distribution Permit (City Code Chapter 62) - Obtained prior to construction for any extension or modification of the City's water distribution system.
 11. Stormwater Best Management Practice (BMP) Operation and Maintenance Permit (City Code Chapter 60) - Obtained after stormwater BMP installation and upon the final certification.

6.1.3. PROCEDURES.

All development permits applicable to a proposed development must be issued in accordance with the provisions of this Ordinance, prior to any development activity. Permits are required for all development, unless otherwise excepted, to ensure compliance with the various adopted codes, standards, and laws and to ensure consistency with the Comprehensive Plan and policies of the City.

6.1.4. ZONING CLEARANCE PERMIT (Includes Temporary Zoning Clearance Permits).

- A. **Application.** Upon adoption of this Ordinance, buildings or structures shall be erected or constructed, and uses shall be established, only on parcels of land that have been created in conformance with this Ordinance. To construct any structure on or develop any land, a Zoning Clearance Permit must be obtained from the City of Concord Development Services Department. Building permits are issued by the Cabarrus County Building Inspections Department and may also be required for construction. A stormwater and grading permit may be issued separately or in conjunction with a Zoning Clearance Permit.
- B. **Procedures**
 1. Prior to construction of a building the Applicant shall file a completed Zoning Clearance Permit application with the Administrator. If Site Plan review is required in accordance with § 5 of this Ordinance, the approved site plan must be submitted with the Zoning Clearance Permit application. If the proposed development or development activity is not subject to site plan review pursuant to § 5.4, a plot plan is still required for administrative review to ensure the activity does not impact water quality or natural stormwater flow. For residential structures, architectural drawings showing building floor plans and elevations are required. The requirements for a plot plan are set forth

in the next section.

2. Plot Plan Submission Requirements

- A. Location of structure(s), including, but not limited to, all proposed decks, steps, or other similar structural improvements.
- B. Building setbacks
- C. Location of off-street parking areas
- D. Location of 100-year flood plain
- E. Architectural drawings showing building elevations with material indicated and floor plans. These can be reductions on 8.5 x 11 inch paper.

3. Following review, the Administrator shall approve, approve with conditions, or deny the application for a Zoning Clearance Permit. Development approvals will be provided in writing in either print or electronic form (in a version protected from further editing). Applications that are denied shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator to the Zoning Board of Adjustment is allowed as prescribed in § 6.3.

- C. **Approval Criteria.** The Zoning Clearance Permit shall be issued by the Administrator only if the application complies with all pertinent provisions of this Ordinance, and any approved special use permit, conditional rezoning, or site plan, except under the following circumstances;

- 1. A Legal nonconforming use established in accordance with the provisions of this Ordinance; and
- 2. Construction or expansion of an existing principal or accessory use, that otherwise conforms to all standards of this Ordinance, by no more than ten percent (10 %) of the cumulative gross floor area of the lot of record are exempt from Article 10 Upfit to Public Streets.

- D. **Validity.** The Zoning Clearance Permit shall be valid for the established use if:

- 1. The use is in compliance with applicable codes
- 2. A building permit has been obtained by the applicant within (6) months of issuance of the Zoning Clearance Permit

If six (6) months elapse without the issuance of a building permit, the Zoning Clearance Permit shall expire. Resubmission of plans and materials and an application for a new Zoning Clearance Permit, including applicable fee(s), shall be required for any approved project that did not commence construction within six (6) month period.

6.1.5. CERTIFICATE OF COMPLIANCE.

- A. **Application.** On the effective date of this Ordinance, it shall be unlawful to use, permit the use or occupancy of, connect or provide utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure, including home occupations, until a Certificate of Compliance Permit has been issued by the Administrator. Freestanding single-family residences are exempt. Certificate of Compliance is the City's final permit before the Cabarrus County Building Inspections Department issues a Certificate of Occupancy.
- B. **Procedures.** The Applicant shall file a complete application for a Certificate of Compliance Permit with the Administrator. For new construction projects, an approved as-built plot plan or site plan as submitted for the Zoning Clearance Permit shall be used. If the application for a Certificate of Compliance Permit does not involve new exterior construction, a plot plan showing all exterior improvements, as required by this Ordinance, shall be provided for review. The Administrator shall assist the applicant in determining which documents are required for a submittal.
1. Individual tenants desiring to occupy lease space within an existing commercial development with multiple tenants shall be required to obtain a Certificate of Compliance Permit. However, individual tenants shall not be required to upgrade any existing nonconforming site improvements to conform to the standards of this Ordinance, unless the new tenant(s) creates a change of use.
 2. Following review, the Administrator shall approve, temporarily approve, or deny the application for a Certificate of Compliance. Development approvals will be provided in writing in either print or electronic form (in a version protected from further editing). Denied applications shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator is allowed as provided for in § 6.3.
 3. **Approval Criteria.** The Administrator shall issue the Certificate of Compliance Permit only if the application complies with all pertinent provisions of this Ordinance and any approved special use permit, conditional rezoning or site plan.
 4. **Validity.** The Certificate of Compliance shall be valid for its granted use as long as 1.) The use is in compliance with applicable codes and 2.) The property or structure is used, erected, changed, converted, altered, or enlarged in the stated manner.
 5. **Performance Security.** The applicant may submit a performance guarantee to the Administrator if a Certificate of Compliance Permit cannot be approved because certain improvements cannot be completed or installed due to adverse weather conditions or other

reasonable factors. The applicant shall submit to the Administrator the following information:

- a. A specific description of the factor(s) causing the delay in the installation of the improvement(s); and
- b. A written estimate from a licensed contractor of the cost of materials and labor for completing the work. The Administrator shall then determine if the submission of a performance guarantee is appropriate and if the estimate is acceptable. The performance guarantee shall follow the standards of section 5.7.6.4.2. and shall be in the amount of 125% of the estimate. The performance guarantee shall be released after the improvements, as guaranteed, are inspected by the Administrator and determined to be in full compliance with the approved plan.

6.1.6. TEMPORARY ELECTRIC POWER PERMIT.

- A. The Administrator issues temporary Electric Power Permits for the purposes of establishing temporary electric power to a construction site or location for a period not to exceed six (6) months. A Temporary Electric Power Permit may also be issued for a period not to exceed six (6) months to allow for utilities to be connected to an unoccupied structure for rent and/or sale. It shall be unlawful to permanently occupy any portion of a newly constructed or altered building or structure, or to allow a change of use to occur unless a Certificate of Compliance has been granted as prescribed in § 6.1.5. The procedures for issuance of a Temporary Electric Power Permit are as set forth in § 6.1.4.

6.1.7. STORMWATER INSTALLATION / GRADING PERMITS.

- A. **Application.** On the effective date of this Ordinance, it shall be unlawful for any person(s) to commit any land disturbing activity, including removal of vegetation, until the Administrator has issued a Stormwater Installation / Grading Permit. Phase II provisions became effective upon the adoption of Article IV on January 12, 2006.
- B. **Coordination with Erosion Control.** A Stormwater Installation / Grading Permit shall not be issued until a Sedimentation and Erosion Control Permit has been issued as set forth in § 4.5, if applicable.
- C. **Approval Criteria.** Stormwater Installation /Grading Permit may be issued prior to the Zoning Clearance Permit. This permit allows the developer to begin site work prior to the approval of the Zoning Clearance Permit. Approved grading and drainage plans shall be submitted prior to issuance of the permit. The Stormwater Installation /Grading Permit shall be issued by the Administrator only if the application complies with the standards of Article 4, the City of Concord Technical Standards Manual, and as referenced below:

1. The provisions for floodplain protection as prescribed in §4.7 of this Ordinance;
2. The provisions for vegetation protection and retention as prescribed in § 4. 6; and
3. The requirements of § 4.4. Stormwater Control; and
4. As required by any approved special use permit, conditional rezoning, or site plan.

D. Plan Submittal Standards

All designs shall be accompanied by supporting data, graphs, calculations, sketches, and applicable references appropriate to the complexity of the proposed facility.

Plans and profiles shall be drawn on sheets no smaller than 24" x 36" to a horizontal scale of no smaller than 1"=50', and to a vertical scale of 1"=10'. Exceptions are permitted on specific projects such as culverts and channel cross sections. Applications for Stormwater Installation / Grading Permits may be combined with Site Plans and Subdivisions. For the purpose of applying for a Stormwater Installation / Grading Permit, the application shall include, at minimum, the following information:

1. Address or vicinity map showing the location of the activity.
2. Subdivision name including book and page number and date of the approved subdivision plat, if applicable.
3. The date of the subdivision's approved Stormwater / Grading Permit, if applicable.
4. Site boundaries.
5. Street and other right-of-ways.
6. Existing roadway width and pavement type.
7. Stationing shall match street stationing and proceed upstream.
8. North arrow shall point to the top of page or to the left.
9. Elevation datum shall be United States Geological Survey (USGS).
10. Existing and proposed structures and finished floor elevations.
11. Existing and proposed driveway locations and types.
12. Existing and proposed stormwater facilities (swales, pipes, inlets, basins, etc.).

-
13. General drainage patterns indicated on a topographic map showing 1-foot (or smaller) contour intervals.
 14. Natural drainage ways and direction of flow.
 15. City designated Stream Buffer overlays.
 16. FEMA Flood boundaries and/or elevations.
 17. Location and extent, and label the name of, any water body that is shown on the most recent version of either the 7.5-minute USGS topographic map or the Natural Resource Conservation Service (NRCS) Soil Survey map.
 18. Extent and phasing of land disturbing activities. If needed, a separate drawing can be provided for each phase.
 19. Other information that may be necessary to develop an understanding of the project.

Profiles sheets or drawings shall indicate the proposed system being designed (size and type of material) with flow-line elevations, flow-lines, gradients, left and right bank profiles, station numbers, inlets, manholes, ground-line and curb-line elevations, typical cross sections, riprap construction, filling details, minimum permissible building floor elevations within 100-year floodplain and adjacent to open drainage features, pipe crossings, design flow capacities and velocities, and title block.

Detail plans and sections shall be provided for all special system features such as detention/retention facilities, inlets, manholes, culverts, pipe bedding and backfill, ditch sections, and all related structures.

A complete list of the drawing requirements is provided on a reproducible sheet located in the *Manual*. No text presented on the drawings and documents shall be in a font smaller than 10-point type. The Administrator may waive any of the format specifications and required items that are deemed not to be necessary for the review, reproduction, and storage of the documents.

At the City's option, any or all of the above materials may be, or may be required to be, submitted in electronic formats compatible with the City's computer systems and software.

Exemption. A Stormwater Installation / Grading Permit shall not be required for Agricultural uses, as defined in Art. 14.

- E. **Validity.** The Stormwater Installation / Grading Permit shall be valid for six months. If six (6) months elapse without the commencement of construction the Stormwater Installation / Grading Permit shall expire. Resubmission of plans and an application for a new Stormwater Installation / Grading Permit, including applicable fee(s), shall be required upon expiration of the permit.

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- F. Vegetation Protection and Retention.** See section 4.6.2.2.
- G. General Requirements.** See section 4.6.2.3. and the tree and vegetation protection techniques shall be shown in the Stormwater / Grading Plans and shall be in conformance with standard practices set forth in the *Manual*.
1. The Administrator shall use the guidelines below to assist in determining the approval of a Stormwater Installation / Grading Permit. Vegetation should be removed if:
 - A. The vegetation prevents the reasonable development of a property and without its removal, development of the land would be prevented;
 - B. The vegetation poses a safety hazard to pedestrians or vehicles, buildings or structure;
 - C. The vegetation imposes a disruption or potential disruption of utility services;
 - D. The vegetation prevents access to property; or
 - E. The vegetation is diseased or will become diseased due to infectious disease, insect infestation, wind or ice storm, or fire and poses a threat to the safety and welfare of the public, vehicles, structures or buildings.

6.2. SPECIAL USE PERMITS

6.2.1. APPLICABILITY.

- A. Special uses are generally compatible with the land uses permitted by right in a zoning district, but require individual review as to their location, design, and configuration. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.
- B. Only those uses that are enumerated as special uses in a zoning district, as set forth in the Table of Permitted Uses of this Ordinance, shall be authorized by the Planning and Zoning Commission (Commission).

6.2.2. APPROVAL PROCEDURE.

- A. No Special Use Permit shall be authorized, developed, or otherwise carried out until the applicant has approval of the Special Use from the Planning and Zoning Commission and approval of a site plan per § 5.4 or alternate plan by the Administrator and/or Commission, as applicable.
- B. Applications for Special Use Permit approvals shall be filed with the Administrator. A pre application meeting prior to filing is strongly encouraged.
- C. Site plan applications (see Article 5.4) or Plot Plans (see § 6.1.4. B.) shall be filed concurrently with Special Use Permit applications. The Planning and Zoning Commission shall consider both the site plan and special use permit at the same meeting.
- D. The Planning and Zoning Commission shall conduct a quasi-judicial evidentiary public hearing following the requirements of section 6.3 below, and shall do one of the following;
 - 1. Deny the request, or
 - 2. Approve the request; or
 - 3. Approve the request with conditions.
- E. The Planning and Zoning Commission may place conditions on the use as part of the approval to assure adequate mitigation measures are associated with the use. The conditions shall be agreed to in writing and become a part of the special use permit approval and shall be included as part of the site plan. The Commission may not impose any conditions on a special use permit that it does not otherwise have statutory authority to impose.
- F. Special use permits shall be approved by a simple majority of the members of the Commission present at the meeting and not otherwise excused.
- G. Appeals from the Commission shall be filed with the Administrator within 30 days of the final decision of the Commission. The Commission's decision shall be considered a final decision after the Commission approves and the Chair signs an order stating the permit requirements. The Zoning Board of

Adjustment shall sit as a quasi-judicial body to hear the appeal after final approval by the Commission.

- H. The Director of Development Services shall cause a copy of all orders issued to be recorded in the Cabarrus County Registry and a written copy to be mailed to the applicant and to any person who has filed a written request for such copy with the Office of the City Clerk or chairperson of the commission at the time of its hearing of the case. Delivery shall be by any of the following means: personal service, registered mail, or certified mail, return receipt requested.
- I. Violations of any of the conditions shall be treated in the manner as set forth in § 1.5 of this Ordinance.
- J. An application for a Special Use Permit that has been denied may be resubmitted only after one year from the date of the first submission or upon the motion of the Planning & Zoning Commission.
- K. Any conditional or special use permit issued under Articles 5 or 6 of this Ordinance may be modified following the provisions of this section. This section may also be used to amend site plans submitted as a part of a conditional or special use permit application as provided below. The limits on the administrator's ability to approve amendments to site plans found in section 5. 4.c.4. do not apply to site plans submitted as part of a special or conditional use application. Nothing in this section allows the administrator to approve the extension or expansion of a non-conforming use.
 - 1. Subject to subsection (5), insignificant deviations from the permit (including approved plans) issued by the Planning & Zoning Commission or the Board of Adjustment or the administrator are permissible; and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
 - 2. Subject to subsection (5), minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Unless it is requested by the permit-issuing authority, no public hearing shall be required for such minor modification. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. All changes having a greater impact (such as changes to density or use) are "major changes".
 - 3. Subject to subsection (5), all other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Planning & Zoning Commission or the Board of Adjustment, new conditions may be imposed if the permit issuing authority has the right to impose conditions on the original or prior permit; but the applicant retains the right to reject such

additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

4. The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (1), (2) and (3).
5. An applicant requesting a change in approved plans shall point out to the administrator, specifically and in writing, what deviation or changes are requested. The administrator shall respond in writing. No changes shall be authorized except in conformity with this section.
6. When (i) a request for a change in a permit is made under this section (whether for an insignificant deviation, minor modification, or major modification), and (ii) the use of the property is not changed, and (iii) some type of nonconforming situation other than a nonconforming use exists on the property, then the permit change may be approved without requiring the elimination of the nonconforming situations. However, (i) any new development authorized by the permit change shall comply with current standards to the extent reasonably practicable, and (ii) the permit-issuing authority may require the elimination of nonconforming situations when the cost (financial and otherwise) of doing so is clearly proportional to the benefits of elimination of such nonconformity.

6.2.3. APPROVAL CRITERIA.

The Planning and Zoning Commission shall permit only those uses that are part of the special use permit. The following criteria shall be issued by the Commission as the basis for review and approval of the project:

- A. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.
- B. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
- C. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
- D. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- E. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
- F. Compliance with any other applicable Sections of this Ordinance.

6.2.4. SCOPE OF APPROVAL.

All approvals of Special Use Permits require concurrent approval of a site plan (§5.4) or plot plan (§6.1.4. B.). No Zoning Clearance Permit may be issued until either the final major site plan or plot plan and Special Use Permits are approved. Approval of a special use permit does not authorize any development activity, but is a pre-requisite in some cases to obtaining approval of construction plans or other necessary permits.

6.3. PERMITS ISSUED BY THE ZONING BOARD OF ADJUSTMENT

6.3.1. GENERAL PROVISIONS.

All permits issued by the Board of Adjustment under this section shall be subject to the following General Conditions, including a “Quasi-Judicial Evidentiary Public Hearing”. The provisions of this subsection apply to any application for a variance, appeal, or any other quasi-judicial action.

6.3.2. APPLICATION REQUIREMENTS.

A. Times to Apply.

1. A notice of appeal of an administrative decision from a final decision relating to an application for development approval shall be submitted to the Administrator within thirty (30) days from receipt of the decision.
2. Applications for variances and certificates of non-conformity adjustments shall be submitted to the Zoning Administrator according to the annual schedule adopted by the Board.

B. Fee Required. All applications, including applications for re-hearings, shall be accompanied by a fee as established by City Council in the annual Budget Ordinance. This fee partially defrays the City's expense in keeping records relating to the application, verifying the application, advertising a public hearing on the application, and performing other services required by statute or ordinance in processing the application to its conclusion. No refund of the fee or any part thereof shall be made unless the application is withdrawn prior to hearing. However, in the case of applications brought challenging the decision, determination, order, requirements or interpretation of the administrative official pursuant, the filing fee and any civil penalty will be returned to the applicant if the Board of Adjustment decides that the position of the City official is erroneous; except as stated herein no civil penalty shall be reduced by the Board. A fee shall not be required if the application is made by the City or any agency created and appointed by the Concord City Council to perform governmental functions.

C. Notices Required. Three kinds of Notices are required before the Board of Adjustment may consider applications. Notices shall be made by publication, mail, and posting on or near the subject property. The requirements for each type of notice are listed in Section 1.6.

6.3.3. QUASI-JUDICIAL PUBLIC HEARING PROCEDURES.

A. Generally. In making quasi-judicial decisions, the decision-makers must investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land use policies to individual situations, such as variances, special use permits, and appeals of administrative determinations. These decisions involve two key elements: 1.) The finding of

facts regarding the specific proposal and 2.) The exercise of some discretion in applying the standards of the ordinance. Due process requirements for quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes a hearing with the right of the parties to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial, and material evidence. Minutes from the quasi-judicial public hearing will be recorded and kept by the clerk.

B. Conduct of Hearing. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing, after first taking an oath or affirmation to give accurate and truthful testimony, shall state, for the record, his or her name, address, and if appearing on behalf of an organization or group, its name and mailing address.

1. All parties with standing shall have the right to participate fully in evidentiary hearing including: presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments. Non-parties may present competent, material, and substantial evidence that is not repetitive. Opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value or traffic impacts.
2. 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.
3. The Board of Adjustment shall act as a fact-finding body and shall approve or disapprove the application in accordance with the evidence presented before it that is competent, relevant, and material. Every decision shall include the vote, abstention from voting, or absence of each member.

C. The decision of the quasi-judicial proceeding, including findings of fact and conclusions of law, shall be filed in the Office of the City Clerk and recorded at the Cabarrus County Registry. A written copy shall be mailed to the applicant and to any person who has filed a written request for such copy with the Office of the City Clerk or chairperson of the zoning board of adjustment at the time of its hearing of the case. Delivery shall be by any of the following means: personal service, registered mail, or certified mail, return receipt requested.

1. Variances shall be approved by a four-fifths majority of the members of the Board, excluding any un-filled vacancies and members disqualified from voting on a particular matter. All other quasi-judicial matters heard by the Board of Adjustment may be decided by a simple majority of the members, excluding any un-filled vacancies and members disqualified from voting on a particular matter.
2. Appeals from the Board of Adjustment shall be filed with the Clerk of the Cabarrus County Superior Court within 30 days of the final decision of the Board. The Board of Adjustment's decision shall be considered a

final decision after the Board approves the official minutes containing such during an official meeting.

D. GENERAL FACTS TO BE CONSIDERED.

1. Uniform rules and standards are set forth in this Article, which regulate the interpretation of the text of this Ordinance and the Official Zoning Maps, the appeal from administrative decisions, the issuance of variances, and the granting of non-conformity exceptions. Under this authority, the Board of Adjustment is required to determine the applicability of facts to a particular case. It is recognized that the required facts are not reducible to any precise formula, but rather they must be gathered from the varying circumstances of the actual cases as they arise.
2. In passing on any case the Board of Adjustment shall determine that the request meets all applicable requirements of this Code, and if there are conflicts between the Code provisions, the more restrictive shall apply unless an overlay district authorizes a lesser standard.
3. In passing on any case, and as a further guide to its decision-making, the Board of Adjustment may also consider, among other things the following, if relevant to the requested interpretation, appeal, variance, and special use permit(s):
 - A. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
 - B. The character and use of buildings and structures adjoining or in the vicinity of the property mentioned in the application.
 - C. The character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.
 - D. The number of persons residing, studying, working in or otherwise occupying buildings adjoining or in the vicinity of the property mentioned in the application.
 - E. Traffic conditions in the area and accessibility of the building for fire and police protection. Any measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
 - F. Accessibility of light and air to the premises and to the property in the vicinity.

- G. The location, kind and size of surface and subsurface structures in the vicinity of the property mentioned in the application, such as water mains, sewers and other utilities.
- H. Materials of combustible, hazardous, explosive, or inflammable nature to be sold, stored, or kept on the premises.
- I. Protection of occupants of the building from stormwater, noise, dust, on-street parking, odor, vibration, smoke, gases, or other noxious or offensive substances, uses or actions.
- J. The type of electric illumination for the proposed use, with special reference to its effect on nearby structures and the glare, if any, from such illumination in surrounding sleeping quarters.
- K. The public records and other competent testimony concerning the location of the zoning district boundary lines.
- L. The relation of the proposed application to conditions in the vicinity which have changed since the zoning district was originally determined.
- M. The effect on the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- N. Compliance with any other applicable Sections of this Ordinance.

6.3.4. VARIANCES.

- (a) A variance is not a right. It may be granted to an applicant only if the applicant establishes that unnecessary hardships would result from carrying out the strict letter of this ordinance. The Board shall have the power to vary or modify the provisions of the ordinance, so that the spirit, purpose, and intent of the ordinance are observed, public safety is secured, and substantial justice is achieved.
- (b) Any person may petition the Zoning Board of Adjustment for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. To qualify for a variance, the petitioner must show all of the following:
 - (1) Unnecessary hardships would result from strict application of this ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property. 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.

(3) The hardships did not result from actions taken by the petitioner. 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.

(4) The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety; and will achieve substantial justice.

(c) The Zoning Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(d) Statutory exceptions.

Notwithstanding subdivisions (a) through (c) of this section, exceptions to sections 4.3 through 4.5 as well as any deed restrictions and protective covenants requirements may be granted in any of the following instances:

(1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of best management practices (BMPs).

(2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

(e) No change in permitted uses may be authorized by variance.

6.3.5. APPEALS OF ADMINISTRATIVE DECISIONS.

Any person aggrieved or any agency or officer, department, board, including the governing board of the City of Concord affected by any decision, order, requirement, or determination relating to the interpretation, compliance, or application of chapters 1 and 2 of this Part and made by an administrative official charged with the enforcement of these chapters may file an appeal to the Board of Adjustment. If an administrative official charged with enforcement of chapter 1 and 2 of this part is unable to make a decision because of vagueness or ambiguity in the meaning or

application of these chapters or the zoning map, determine whether a proposed use is allowed within a zoning district, or resolve similar questions or uncertainties, the official is hereby authorized to bring an appeal to the Board of Adjustment. In an appeal to the Board of Adjustment, regarding an administrative decision or interpretation, the Board's scope of review shall be limited to determining whether the decision or interpretation by the Administrator was in accordance with the intent and requirements of this Ordinance, and accordingly, the Board will affirm or reverse the decision.

6.3.6. CERTIFICATES OF NONCONFORMITY ADJUSTMENT.

- A. Certificates of Nonconformity Adjustment shall be required to enlarge, expand or otherwise alter any Nonconforming Use or Structure.
- B. In addition to the application requirements stated at section 6.3.2, Applications for a Certificate of Nonconformity Adjustment shall include a detailed plan of the existing site, showing the degree of Nonconformity with respect to the dimensional and design regulations of this Ordinance. In the case of a Nonconforming Use the application shall include a detailed explanation of the current Use including documentation of traffic generated by the current use.
- C. The Board of Adjustment may impose conditions to lessen the size or scope of the nonconformity. The Board may determine what the nonconformity operator/owner must do to the property for certification. For example, landscaping or fencing may be required or a shift of operations away from adjoining properties may be stipulated.

6.3.7. REVIEW OF PREVIOUS PROCEEDINGS OR DECISIONS BY THE BOARD OF ADJUSTMENT

- A. All quasi-judicial decisions of the Board of Adjustment, whether or not such decision contain limiting conditions, may be set aside or modified upon a finding that:
 - 1. Fraud, material, misrepresentation or other misconduct occurred at the proceeding before the Board of Adjustment; or
 - 2. Violation of any limiting condition imposed in accordance with this development ordinance or violation of any provision of this development ordinance exists on the subject property.
- B. No decision shall be set aside or modified until the landowner and tenant (if any) are sent written notice and a hearing on the matter is first held. If a review proceeding is held to determine that the applicable conditions and provisions of this chapter are being met, special attention to the impact of the original action on adjoining properties and the extent to which financial investments were made in reliance of the decision, particularly for decisions made prior to the application of this provision. After the hearing the prior decision may be reversed, modified, or affirmed.

Summary: This Article divides the City into districts for the purpose of regulating the use of lands within the districts, as well as dimensional requirements and other standards applicable to construction, reconstruction and alterations of such uses. This Article provides information on the establishment of the zoning districts including the zoning map, district boundaries, purpose statements, and supplemental design standards.

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7.1 GENERAL

7.1.1. PURPOSE

The City is hereby zoned and divided into districts. The purpose of establishing these districts is to:

- A. implement the Comprehensive Plan;
- B. promote the health, safety, morals, and the general welfare;
- C. provide for the orderly growth and development of the City and for the efficient use of our resources (land, water, roads, etc.);
- D. lessen congestion in the streets;
- E. secure safety from fire, panic, and other dangers; and
- F. facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

7.2 ESTABLISHMENT OF ZONING DISTRICTS

7.2.1. PURPOSE AND INTENT

In accordance with the requirement of NCGS § 160D-703 that zoning regulation be by districts, the City Council, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance, the respective symbol for each type of district being set forth opposite its title:

BASE ZONING DISTRICTS		SECTION REFERENCE
AG	Agricultural District	7.5.1
RE	Rural Estate District	7.5.2
RL	Residential Low Density	7.5.3
RM-1	Residential Medium Density	7.5.4
RM-2	Residential Medium Density	7.5.5
RV	Residential Village	7.5.6
RC	Residential Compact	7.5.7
O-I	Office-Institutional District	7.5.8
B-1	Neighborhood Commercial/Office District	7.5.9
CC	City Center District	7.5.10
C-1	Light Commercial and Office District	7.5.11
C-2	General Commercial District	7.5.12
I-1	Light Industrial District	7.5.13
I-2	General Industrial District	7.5.14

SPECIAL PURPOSE ZONING DISTRICTS		SECTION REFERENCE
PUD	Planned Unit Development District	9.1
PRD	Planned Residential Development District	9.2
MXD	Mixed Use District	9.3
TND	Traditional Neighborhood Development District	9.4
MHP	Manufactured Home Park District	9.6
PID	Public Interest District	9.7
LID	Low Impact Development (LID)	9.11
R-CO	Residential County Originated	9.12
CS	Conservation Subdivision District	9.13

7.2.2. OVERLAY DISTRICTS

In accordance with the authority provided by NCGS § 160D-703, the City hereby establishes the following overlay districts, which shall be governed by all of the uniform use and area requirements of this Ordinance. Within these overlay districts; additional requirements are imposed on certain

properties within one or more underlying general or conditional districts.
 The symbol for each type of district is as follows:

OVERLAY DISTRICTS		SECTION REFERENCE
HPOD	Historic Overlay District	9.8
AOD	Airport Overlay District	9.9
MHD	Manufactured Home Park District -	9.6
WPOD	Watershed Protection Overlay District -	Art 4
CBCOD	Copperfield Boulevard Corridor Overlay (CBCOD) District	9.10

7.2.3. CONDITIONAL DISTRICTS

In addition to the base zoning districts established in Section 7.2.1, above, the following conditional districts are established which correspond to the above-referenced base zoning districts, and which are identical to the base zoning districts with the exception that more restrictive development standards are required as a prerequisite to any use or development therein, as provided for in this Article and in Section 3.2.8.

CONDITIONAL DISTRICTS	
AG-CD	Agricultural Conditional District
RE-CD	Rural Estate Conditional District
RL-CD	Residential Low Density Conditional District
RM-1-CD	Residential Medium Density Conditional District
RM-2-CD	Residential Medium Density Conditional District
RV-CD	Residential Village Conditional District
RC-CD	Residential Compact Conditional District
B-1-CD	Neighborhood Commercial/Office District Conditional District
O-1-CD	Office Institutional-Conditional District
CC-CD	City Center Conditional District
C-1-CD	Light Commercial Conditional District
C-2-CD	General Commercial District Conditional District
I 1-CD	Light Industrial District Conditional District
I 2-CD	Heavy Industrial District Conditional District

7.2.4. ADDITIONAL ZONING DISTRICTS

Additional zoning districts may be adopted from time to time by City Council upon recommendation of the Planning and Zoning Commission pursuant to Section 3.3.

7.2.5 ZONING AND COMPREHENSIVE PLAN

The purpose of this Article is to implement the land use policies of the Comprehensive Plan. Pursuant to NCGS § 160D-604(d) et seq., all zoning ordinances or regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans of the City Council, if any, as adopted under NCGS Article 5 of Chapter 160D. To the extent that there is any inconsistency between Article 7 and the specific provisions of the Use Table Section 8.1.8 et seq., the provisions of Section 8.1.8. et seq. shall prevail.

7.3 ZONING MAP

7.3.1. BOUNDARIES OF ZONING DISTRICTS

The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the City of Concord. The City Clerk shall certify these maps and all references and dates shown thereon.

7.3.2. LOCATION OF OFFICIAL ZONING MAP

- A. Digital and/or paper copies of the current and prior versions of the Official Zoning Map shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the City Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map and available for public inspection.
- B. The Official Zoning Map shall bear a stamp showing the effective date of this Ordinance, shall be certified by the Administrator, shall be identified by the signature of the Mayor, shall be attested by the City Clerk, and bear the seal of the City under the words: "Official Zoning Map, City of Concord, North Carolina". Said map is composed of a series of sheets properly identified as such, which shall be on file in the office of the Administrator, and shall be the official record of zoning status of areas within the City. Land within zoning districts on the Official Zoning Map shall be classified with a zoning district designation, which shall supersede any contrary designation on the former Official Zoning Map. Regardless of the existence of any purported copy of the Official Zoning Map, the zoning map, which shall be located in the office of the Administrator, shall be the final authority as to the current zoning status of land, buildings, and other structures.
- C. If a zoning district is eliminated and there is no corresponding zoning district classification on the Official Zoning Map, the property shall remain subject to all restrictions, regulations and conditions imposed under the zoning ordinance in effect at the time that the former Official Zoning Map was effective unless and until the zoning classification of the property is amended pursuant to this Ordinance.
- D. If a property is zoned "PUD", "TND", "PID" or "PRD" at the time of adoption of this Ordinance, it shall remain subject to all terms, conditions, and restrictions of approval under the zoning ordinance in effect when the PUD or PRD classification was approved, including any specific modifications of the then-existing PUD or PRD or general regulations, and any approved final plans, unless and until the zoning

classification of such property is amended pursuant to this Ordinance. In addition to the foregoing districts, “CD” and “MX” districts are subject to site plan-based development regulation.

7.3.3. OFFICIAL ZONING MAP

The Official Zoning Map is hereby incorporated by reference as if set forth in its entirety herein, and may be referred to as Section 7.3.3.

7.4 DISTRICT BOUNDARIES

7.4.1. ZONING DISTRICT BOUNDARIES

Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, township lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights of way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the Official Zoning Map. If a zoning district boundary line divides a parcel of land at the time of enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

7.4.2. BOUNDARY OR LOCATION DISPUTES

Any dispute as to the boundary or location of property within a zoning district shall be resolved in accordance with the following:

- A. When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.
- D. Boundaries indicated as separated from but approximately parallel to any of the features indicated above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.
- E. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.
- F. Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Map, the physical monument or marker located on the ground shall control.
- G. Where physical or cultural features, such as flood plains, vary from those shown on the Official Zoning Map, or in other circumstances not covered above, the Administrator shall determine the district boundaries. Any aggrieved person may appeal such determination to the Board of Adjustment, pursuant to Section 6.3.5.

7.5 BASE ZONING DISTRICT PURPOSE STATEMENTS

7.5.1. AGRICULTURAL (AG) DISTRICT

The AG District is established to provide areas for low intensity agricultural operations, large lot residential development, agri-business with supportive industrial and commercial uses, and some limited general commercial businesses. Certain industrial operations which require large expanses of land area and which generate low traffic levels are also suitable for this district. AG zoning protects and preserves valuable agricultural areas along with some open space.

7.5.2. RURAL ESTATE (RE) DISTRICT

The RE District is established to provide areas for low-density single-family uses, with a maximum of one dwelling unit per acre. Property zoned RE should include only those tracts, which abut or are in close proximity to existing large-lot single family development, making RE an appropriate transition district between rural, agricultural, and suburban uses.

7.5.3. RESIDENTIAL LOW DENSITY (RL) DISTRICT

The RL District is established to provide areas for low-density single-family uses, with a maximum of two dwelling units per acre, which may provide buffers between the AG and RE classifications and the higher density areas of the City. It includes flexible density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

7.5.4. RESIDENTIAL MEDIUM DENSITY (RM-1) DISTRICT

The RM-1 District is established to provide areas for medium density, single-family residential uses, with a maximum of three dwelling units per acre, where facilities and services exist with capacity to serve development. RM-1 provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

7.5.5. RESIDENTIAL MEDIUM DENSITY (RM-2) DISTRICT

The RM-2 District is established to provide areas for medium density, single-family residential uses, with a maximum of four dwelling units per acre, where facilities and services exist with capacity to serve development. RM-2

provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

7.5.6. RESIDENTIAL VILLAGE (RV) DISTRICT

The RV District is established to provide areas for detached and attached single-family homes, with a maximum of eight dwelling units per acre, in areas where large-lot development is discouraged and facilities and services are available. RV supports the principles of concentrating urban growth and reinforcing existing community centers, allowing limited commercial development and mixed-use structures.

7.5.7. RESIDENTIAL COMPACT (RC) DISTRICT

The RC District is established to provide a high-density residential district allowing compact development consisting of the full spectrum of residential unit types where facilities and services are available. Unit types may include single family attached dwellings, townhouses, duplexes and apartments, with a maximum of 15 dwelling units per acre except as otherwise provided in this Ordinance. RC may serve as a transitional district between lower density residential and low intensity commercial uses. This district is intended to allow a mix of residential unit types and densities to provide a balance of housing opportunities while maintaining neighborhood compatibility.

7.5.8. OFFICE AND INSTITUTIONAL (O&I) DISTRICT

The O&I District is established to provide for agencies and offices rendering specialized services and traditional institutional functions (both public and private) including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities and charitable institutions. To protect the low intensity character of this district, retail and wholesale trade are prohibited as permitted principal uses.

7.5.9. NEIGHBORHOOD COMMERCIAL (B-1) DISTRICT

The B-1 District is established to provide small areas for office and professional services combined with shop front retail uses, shops for artisans and craftsmen, designed in scale with surrounding residential uses. This district provides a balance of residential and non-residential land use opportunities reflecting the economic needs of residents and business owners. Location of B-1 districts should include: Lots, parcels or tracts located at the intersections of collector streets, including collector/collector and minor thoroughfare/collector, except where an

existing building or structure used as permitted in the B-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning. The distance shall be measured between the closest boundaries of the two (existing and proposed) districts.

7.5.10. CITY CENTER (CC) DISTRICT

The CC District is established to provide concentrated downtown retail, service, office and mixed uses (including residential uses) in the existing central business districts. Shopping centers are permitted, but urban design standards as set forth in Section 10.7 are required in order maintain a neighborhood commercial scale, to promote pedestrian activity, and to maintain the unique character of the center. Pedestrian circulation is required as are common parking areas. The CC District promotes the long-term vitality of the central business districts. No rezoning to a CC or a CC-CD District shall be approved unless the lot, parcel or tract subject to the application adjoins an existing CC, or CC-CD zoning district.

7.5.11. LIGHT COMMERCIAL (C-1) DISTRICT

The C-1 District is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 District is to accommodate well-designed development sites that provide transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Districts should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 Districts should be located on or within proximity to major and/or minor thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

7.5.12. GENERAL COMMERCIAL (C-2) DISTRICT

The C-2 District is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. Rezoning to the C-2 District should be avoided adjacent to any single-family Residential Zoning District (RE, RL, RM-1 or RM-2). C-2 Districts should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established

prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

7.5.13. LIGHT INDUSTRIAL (I-1) DISTRICT

The I-1 District is established to provide for areas that contain a mix of light manufacturing uses, office park and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible with adjoining uses. I-1 Districts should include areas which continue the orderly development and concentration of light industrial uses, including self-storage facilities. I-1 Districts should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

7.5.14. GENERAL INDUSTRIAL (I-2) DISTRICT

The I-2 District is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 Districts should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 District is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 District. I-2 Districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 Districts should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

7.6 STANDARDS FOR BASE ZONING DISTRICTS

7.6.1. GENERAL

- A. Permitted uses are listed in Table 8.1.8. Uses permitted by right, uses permitted as special uses and uses for which there are supplemental use regulations in Section 8.3 are indicated in the table. Accessory uses shall be regulated in accordance with Section 8.4 and 8.2 Temporary uses shall be regulated in accordance with Section 8.8.
- B. Dimensional and density regulations, including setbacks, are listed in Table 7.6.2-A, and Table 7.6.2-B. These standards may be modified for conditional districts, provided that gross densities may not exceed those authorized by the Land Use Plan.
- C. Standards for off-street parking and loading facilities, and vehicular access are described in detail in Section 10.3.
- D. Standards for landscaping and buffering are described in detail in Article 11.
- E. Sign regulations are described in detail in Article 12.

7.6.2. SETBACKS AND HEIGHT STANDARDS

Setbacks for buildings or structures are measured as the area between the furthestmost projection of a principal structure and the property line of the lot on which the structure is located, except as modified by the standards of this Section. Setbacks shall be unobstructed from the ground to the sky except as specified in this Section. Building setbacks for each zoning district are set forth in Table 7.6.2-B.

A. ENCROACHMENTS

The following features may encroach into a required building setback:

1. Bay windows or other structural overhang, not to exceed three (3) feet;
2. Chimneys, not to exceed two (2) feet;
3. Heating and cooling units, not to exceed (3) feet;
4. Overhanging roof, eave, gutter, cornice, or other architectural feature and awnings, not to exceed 2 feet;
5. Steps, stairs or fire escapes (non-enclosed), not to exceed 6 feet;

6. Uncovered, unenclosed decks, terraces, stoops or porches, but in no case closer than five (5) feet to any property line;
7. Fences and Garden/Yard Walls;
8. Any accessory building or use customarily incidental to the permitted primary use or building as allowed in accordance with Section 8.4 (Accessory Uses).

B. ON STREET FRONTAGE

Structures shall meet the front yard setback from all abutting street rights-of-way unless otherwise provided in this Ordinance. For undeveloped lots, the developer has the option to determine which yard shall be considered the “front” so long as the structure to be constructed on said lot shall have its front facing the same yard. For the purposes of applying setbacks to existing developed lots, the front yard setback shall be defined as the yard with the shortest amount of street frontage. All other frontages shall be considered street side yards.

C. REDUCED FRONT YARD SETBACK

The minimum front yard setback may be reduced for any lot where the average established front setback on developed lots located within 300 feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the front setback on such a lot may be less than the required front setback but not less than the average of the existing front setbacks on the developed lots within 300 feet of each side.

D. HEIGHT STANDARDS

Building height is measured as the vertical distance between the average natural grade between the lowest and highest grades along the foundation and 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; or 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof. (See Figure 7.7-1)

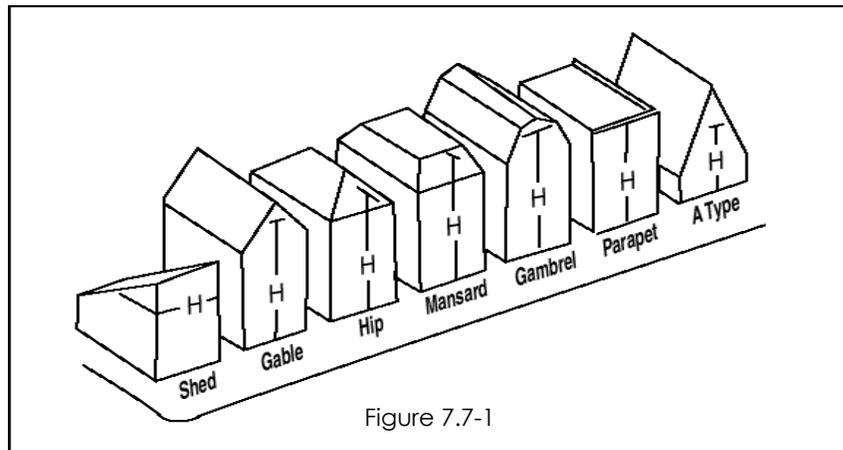
Figure 7.7-1: Measuring Building Height

Figure 7.7-1

E. HEIGHT OF ANCILLARY STRUCTURES

The construction, maintenance, or establishment of any building, tree, smokestack, chimney, flagpole, wire, tower or other structure or appurtenances thereto, which may constitute a hazard or obstruction to safe air navigation, landing, or take-off of aircraft near an airport, is prohibited. This not intended to regulate height of structures in the AO Airport Overlay zoning district (see Section 9.9). The AO Airport Overlay zone regulations shall govern the height of all structures within the boundaries of the Airport Overlay zoning district.

F. EXCEPTIONS TO HEIGHT RESTRICTIONS.

Zoning district height limits shall not apply to belfries, cupolas, spires, domes, monuments, airway beacons, structures for essential services, windmills, flagpoles, chimneys, or chimney flues. Height limits shall not apply to any bulkhead, elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 percent of the area of the roof.

G. HEIGHT TRANSITIONS

In the R-C district, multi-family and other attached residential or mixed-use structures or portions of such structures shall be limited to a height of 35 feet or two stories, whichever is less, if located within 100 feet of a lot used for a detached single-family or duplex dwelling.

DENSITY AND DIMENSIONAL STANDARDS
TABLE 7.6.2 A - DIMENSIONAL STANDARDS

Zoning District	A	B	C	D	E	F	G
	Min. Lot Size (sq. ft.)	Max. Density (per acre)	Impervious Surface Ratio (2)	Min. Public Street Frontage (feet)	Min. Lot Width (feet)	Min. Lot Depth (feet)	Max. Building Height (feet)
AG**	43,560	1	-	30^	200	200	35
RE **	43,560	1	-	30^	150	150	35
RL**	20,000	2	-	15^	100	125	35
RM-1**	15,000	3	-	15^	75	125	35
RM-2**	10,000	4	-	15^	75	100	35
RV***	7,500	8	0.5	15^	50	100	35 (5)
RC***	5,000	15	0.5(6)	15^	50	100	35 (5)
R-CO ³	3,000	15	0.5	15	35	85	40
O-I	-	-	0.7	-	-	-	35(5)
B-1	-	-	0.65	30^	50	100	50
CC	-	-	-	-	-	-	75 (4)
C-1	-	-	0.7	-	-	-	48
C-2	-	-	0.8	30^	50	100	48 (1)
I-1	-	-	0.8	30^	50	100	72
I-2	-	-	0.9	30^	50	100	72

NOTES:

* Residences permitted in nonresidential districts shall conform to the density and dimensional standards of the RC district, except that height restrictions may follow (1) below. Residences in the CC district are not subject to maximum density or dimensional limitations.

** See Section 7.7.4-F for duplex lots and Sections 7.7.3 and 7.7.4 for alternative single-family lot patterns that allow smaller minimum lot sizes under certain conditions.

*** In the districts where permitted, and subject to Section 7.8 multi-family and/or single-family attached developments shall only be subject to Columns B, C, D, and G in Table 7.6.2-A. Setbacks for multi-family and single-family attached developments are set forth in Section 7.8. of this Ordinance. Height in the RC district is subject to the transition provisions of Section 7.6.2.G.

^ See Section 5.5.

- (1) Height may be increased by one foot for each one foot of additional building setback up to a maximum height of 200 feet. Setbacks for Mixed Use, PUD, PRD or similar type projects shall be measured from the overall project boundaries.
- (2) Developments following the low-density option (see §4.4.2-A) may not develop at a total impervious surface ratio greater than 0.24.
- (3) Dimensional requirements only applicable if not indicated on recorded final plat. See also Section 9.12.
- (4) Measured from the lowest level of the Fire Department vehicle access to the tallest finished floor level of the building.
- (5) In the districts where permitted, multi-family has a height limit of four (4) stories. When residential units are included in upper floors in C-2 zoning, the maximum C-2 height limits shall govern.
- (6) May be increased to 0.6 for multi-unit projects that meet the definition of “infill” as specified in Article 14.

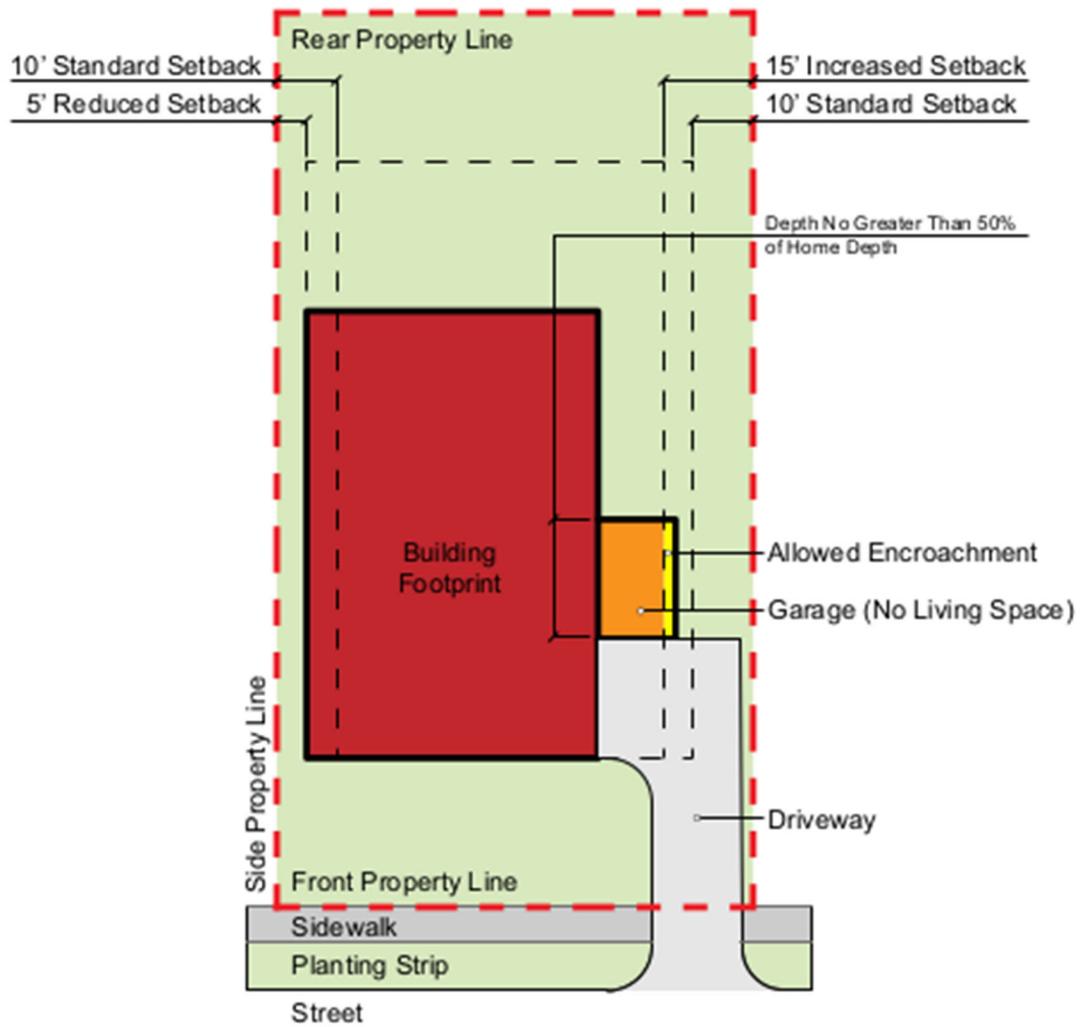
**TABLE 7.6.2 B.
SETBACKS**

Zoning District	Min. Front Setback (feet)	PRINCIPAL STRUCTURES			ACCESSORY STRUCTURES	
		Max. Front Setback (feet)	Min. Interior Side Setback (feet) ²	Min. Rear Setback (feet)	Min. Interior Side Setback (feet)	Min. Rear Setback (feet)
AG	50	-	20 ²	30	10	10
RE	45	-	20 ²	30	5	5
RL	35	-	15 ²	30	5	5
RM-1	25	-	10 ²	25	5	5
RM-2	25	-	10 ²	25	5	5
RV	24 ³	-	7 ²	5	5	5
RC	24 ³	-	7 ²	5	5	5
R-CO ¹	8	-	3	5	5	5
O-I	10	-	-	-	-	-
B-1	10	-	10	20	10	10
CC	-	10	-	-	-	-
C-1	10	-	-	-	-	-
C-2	10	-	-	-	-	-
I-1	30	-	-	-	-	-
I-2	30	-	-	-	-	-

NOTES:

- (1) Minimum setbacks only applicable if not indicated on recorded final plat. See also Section 9.12.
- (2) Minimum interior and street side principal structure setbacks may be reduced in new subdivisions in order to accommodate either rear or side-loaded garages or garages recessed at least four (4) feet behind the front plane of the main structure. The setback on one side may be reduced by one (1) foot for each one (1) foot that it is increased on the other side provided that the reduced site setback is at least five (5) feet. See Section 7.7.4.C and Figure 7.7-2.
- (3) Minimum front setbacks in the RC and RV Zoning Districts may be reduced by (4) feet in new subdivisions if the garage is recessed at least four feet behind the front plane of the main structure in order to increase on-site parking and minimize pedestrian conflicts. This requirement applies to single family detached and townhouse developments only. Front setbacks for attached residential structures may be reduced pursuant to Section 7.6.2.
- (4) The Administrator may approve greater setbacks for large buildings occupying an entire block face and for portions of buildings where portes cochere and courtyards are approved through the site plan process.

Figure 7.7-2 – Reduced Setback Allowance



7.7. RESIDENTIAL DESIGN STANDARDS

7.7.1. PURPOSE AND SCOPE

The purpose of this section is to set forth minimum standards for residential development and to allow flexibility in the siting of residences within the context of GS 160D, Article 1.

7.7.2. SUBDIVISION DESIGN

Subdivision design for residential development shall be regulated in accordance with the following standards. These standards shall apply to all new residential subdivisions, unless otherwise stated in the standards that file an application for preliminary plat approval after September 8, 2005 or a subdivision where lots have not received a Zoning Clearance Permit (ZCP). Open space is required with each subdivision development. See Section 10.5 for Open Space Standards.

A. Block Elements

No block within a residential subdivision in the RM-1, RM-2, RV, or RC districts shall be longer than 800 feet in length unless a mid-block pedestrian and bicycle connection is provided, in which case the block may extend up to 1,000 feet. A street with structures on only one (1) side (also known as a single-loaded street) shall not be restricted in length, provided that mid-block pedestrian and bicycle connections are made at the rate of one (1) for every 600 feet in length. (See Figure 7.7-3). These standards do not apply along State roads.

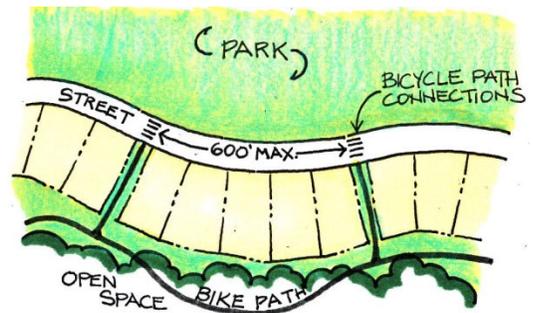


Figure 7.7-3

B. Residential Collector Street

The main collector street entering the development from a major or minor thoroughfare shall be designed as a parkway for a minimum distance of 300 feet. If a street is less than 300 feet functioning as an entry, then it shall be designed with a median. See *Technical Standards Manual* (Driveways).

C. Subdivision Entries

All residential subdivisions of 100 or more lots shall provide at least one subdivision entry in accordance with the following:

1. No driveway on the proposed entry street may be located any closer than 100 feet from the street that the entry street intersects, as measured from the right-of-way of the existing street. All abutting lots within this area shall be screened from view through a combination of walls, berms and plantings.
2. The entrance shall include at least two (2) of the following:
 - a. A divided roadway with a landscaped median island;
 - b. Alternative paving material such as brick or natural stone;
 - c. Fountain or other water feature;
 - d. Sculpture or public art;
 - e. Prominent plantings that exceed minimum requirements for streetscape buffers equating to 25% of the required plant material, or
 - f. Gatehouse, clock tower or similar structure.
3. A description of and design specifications for proposed entranceway features shall be provided at the time of submission of the preliminary plat. Maintenance of the subdivision entry features shall be provided by a homeowner's association and the applicant shall provide documentation establishing legal and financial responsibility for all entranceway features in a form approved by the City Attorney. Additional right-of-way may be required to accommodate entranceway features. The design and location of proposed features within or adjacent to public street rights-of-way shall be subject to additional City and/or NCDOT requirements as applicable.
4. All subdivision entries shall include ground mounted signs constructed of brick, rock or other textured masonry.

7.7.3. HOUSING TYPES

Subdivisions shall specify the allowable types of housing on all lots. Housing types other than conventional detached single-family housing that comply with applicable zoning district standards may be established through the PUD, PRD, or cluster subdivision approval process (as conditional district rezoning) in any base zoning district. Setbacks, densities and lot dimensions for residential development patterns approved through these processes may

deviate from the standards of Section 7.6. Deviations to densities may be approved through these processes provided that they do not exceed the densities specified in the 2030 Land Use Plan

7.7.4. SITE ELEMENTS

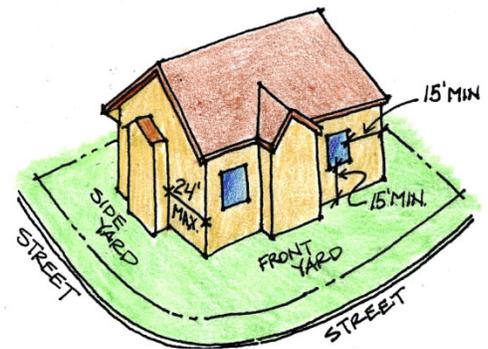
All housing types shall comply with the following site standards. The Administrator, or his designee, may waive individual requirements in this section on a case-by-case basis, provided the intent of this Section is met.

A. Front Yard Fences

Front yard fences, including fences on corner lots, shall not exceed four (4) feet in height. Fences may not be placed within the sight triangle.

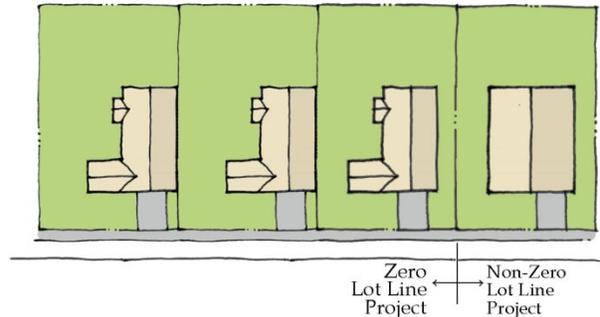
B. Yard Trees

One (1) tree shall be provided within the yard. The tree shall have a minimum size (diameter) of 2-inch caliper at time of planting. Two (2) ornamental trees may be substituted for one (1) tree in a front yard. One (1) additional front yard tree shall be required in any side yard abutting a street. Any existing tree in the required front yard area over six (6) caliper inches shall be credited for one (1) required tree to be planted.



C. Special Standards for a Zero Lot Line House

Figure 7.7-6: Illustration Showing Zero Lot Line Yards



1. Zero Lot Line houses approved through the PRD, PUD, conditional zoning or cluster subdivision process, shall include at least one side yard. This reduction shall not be allowed for the street yard on a corner lot or for the side yard adjacent to lots developed with other housing types. (See Figure 7.7-5.)
2. An easement between the two (2) property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four (4) feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five (5) feet of unobstructed space. The easement shall be recorded on the subdivision plat.
3. The minimum side setback required by the applicable zoning district shall be provided between any zero lot line development and a conventional single-family or duplex lot as shown in Figure 7.7-6. The City may approve front setback reductions of up to 5 feet through the subdivision process if all lots on the applicable block face take access from a rear alley.

D. Special Standards for an Alley-Loaded House

For dwellings taking access from an alley, the following standards apply.

1. No parking shall be permitted in the required front yard. No driveways are permitted in the front yard. On-street parking is permitted.

E. Special Standards for a Townhouse

Purpose: The City of Concord recognizes that the physical characteristics of townhouse developments pose a distinct set of service challenges as

compared to traditional detached single-family developments. The following standards are intended to provide for 1) the safe movement of vehicles and pedestrians; 2) an adequate amount of resident and visitor parking; 3) the safe provision of public utilities and services; 4) the provision of green space; and 5) the creation of a functional, healthy and sustainable permanent shade tree canopy.

Townhouses may have vehicular access on a principal street (front-load) or on an alley (rear-load).

1. Requirements for front-load townhouses.
 - a. Townhouse driveways are prohibited on streets that are functionally classified as collectors or higher.
 - b. All new townhouse developments with driveways on public or private streets shall meet the minimum provisions of Section 10.3.1, as well as all other minimum infrastructure requirements of the Technical Standards Manual (TSM), including but not limited to driveway spacing, utility location, and street tree planting.
 - c. Two off-street parking spaces shall be required per unit, and may be provided within a garage.
 - d. In addition to the required parking spaces for each unit, parking to accommodate visitors shall be provided at a rate of one space for each two units with driveways less than 20 feet in width, and may be provided either as on-street spaces or within a common off-street parking area (or a combination thereof). Visitor parking shall not be required for townhouses with 20 foot-wide driveways.
2. Requirements for rear-load townhouses.
 - a. All townhouse units shall front on a public or a private street or on an improved open space such as a town square, park or a green and shall be served by a rear alley or common parking area. Alleys shall be at least twelve (12) feet in paved width to accommodate one-way traffic and at least sixteen (16) feet in paved width to accommodate two-way traffic. Individual driveways for dwelling units are permissible only on alleys. Parking within the pavement of the alley shall be prohibited.
 - b. Per Section 10.2.5 all private streets shall be constructed to public street standard with the exception of alleys. Construction details for alleys are included in Article 2 of the Technical Standards Manual (TSM).

- c. Alleys shall be designed with a minimum turning radius of thirty (30) feet where they intersect streets and shall be constructed in such a manner as to allow service vehicles to complete turns within the boundary of the alley. Alleys shall be designed in such a manner as to be interconnected to allow through traffic and to avoid dead ends.
- d. Side yards are not required for interior townhouses, but a minimum street setback of ten (10) feet shall be provided along front and corner yards, and building separation requirements of fifteen (15) feet shall be maintained for all groups of townhouse units. Where lot lines are not established or where units are condominiumized, the building setback shall be measured from the back of sidewalk.
- e. Driveways from the rear alley shall be no closer than three (3) feet from the interior side property line. Where interior lot lines are not established or where units are condominiumized, six (6) feet is required between driveways;
- f. Two off-street parking spaces shall be required per unit, and may be provided within a garage. In lieu of providing the required parking spaces on the individual parcel, either a portion of, or all of the required spaces may be provided on-street or within a common off-street parking area.
- g. In addition to the required parking spaces for each unit, parking to accommodate visitors shall be provided at a rate of one space for each two units, and may be provided either as on-street spaces or within a common off-street parking area (or a combination thereof).
- h. Fences and/or walls on the site shall be constructed in such a manner as to allow unobstructed access to all utility meters and easements.
- i. On street parking shall be provided along at least one side of the public or private street. On the side(s) of the street where parking occurs, the planting strip for street trees may be eliminated, but the sidewalk shall still be required. In lieu of the eliminated planting strip, foundation plantings comprised of woody shrubs with a mature height of no more than four (4) feet shall be installed at a four (4) foot spacing along the building foundation.
- j. On the side of the street where no parking is proposed, street trees shall be planted in accordance with Section 11.7.4. In order to provide a traffic calming measure and to

ensure a street tree canopy, curbs shall be extended out in the areas of required building separation between groups of structures to create “bump-outs *” for the planting of street trees. Street trees shall be installed in bump outs at the end of parallel parking spaces.

- k. The minimum setback from the alley (for the garage) is ten (10) feet measured from the exterior building wall of the structure to the edge of pavement. No minimum side setbacks are required for detached garage structures.
- l. All gas, electric service meter points and fiberoptic services shall be located in the rear. City owned water meters or sewer cleanouts shall not be installed within the limits of the townhouse driveway.
- m. Adequate space shall be provided along the alley for safely storing garbage and recycling receptacles without interfering with the maneuvering area within the alley.

F. Special Standards for Duplex Lots

Individual duplexes may be constructed only on lots having 1.5 times the minimum lot area and lot width of the zoning district in which they are located. All other setbacks shall be in accordance with Tables 7.6.2 A. and 7.6.2 B.

G. Special Standards for Single Family Residences in the O-I District

Single family residences shall be permissible only on existing lots of record existing as of August 14, 2014. Subdivision of O-I zoned land solely for the purpose of single family residential subdivisions shall not be permissible.

H. Special Standards for Single Family Attached Residences (Townhomes) in the O-I District

Single family attached residences (townhomes) shall be permissible only as incidental to an institutional use (such as a church or school).

I. Special Standards for Cluster Subdivision

The City may approve subdivisions subject to conditional district zoning approval that do not comply with the minimum lot or area standards of Section 7.6 when the resulting development provides permanent common space for environmental and/or recreational purposes, includes a variety of housing types, and provides for the long-term maintenance of common areas subject to the following provisions:

1. **Density.** Densities shall not exceed those allowed by the 2030 Land

Use Plan.

2. **Lot Sizes.** The average lot size shall not be reduced by more than 75 percent of the minimum lot size allowed in the base zoning district provided that no lot shall be smaller than the following:
 - a. Single-family detached - 5,000 square feet.
 - b. Patio and zero lot line homes - 4,000 square feet.
 - c. Townhomes - 2,000 square feet per dwelling unit.
3. **Preservation Areas.** Land located within wetlands, floodways, and stream buffers shall be retained as permanent open space within designated common areas as Preservation Areas.
4. **Common Areas.** Common Areas, excluding street rights-of-way and buildings, shall comprise not less than 35 percent of the development area. Not more than 50 percent of common areas shall be comprised of Preservation Areas. Common Areas may include space for active or passive recreational facilities, but not more than 20 percent of Common Areas may be used for active recreation. Buffers measuring at least 100 feet in width shall be provided between active recreation facilities and residential lots. Trails are not considered to be active recreation facilities.
5. **Housing Mix.** The development shall include a mix of dwelling unit types, such as those illustrated in Figure 7.7-5, with not fewer than 40 percent nor more than 80 percent of the dwelling units shall conventional single-family detached dwellings, with the remainder being zero lot line, patio homes, other detached development patterns or attached dwelling units.
6. **Maintenance of Common Areas.** In conjunction with subdivision approval, the applicant shall provide for the perpetual maintenance of all common and preservation areas in accordance with Section 9.13.7 of this CDO.

7.8. STANDARDS FOR MULTI-FAMILY DEVELOPMENTS

7.8.1. PURPOSE

The purpose of this Section is to provide reasonable design standards for multi-family residential developments which:

- A.** provide design flexibility that fosters creative integration of buildings and common areas and discourages homogenous building design;
- B.** accommodate affordable housing for current and future residents of the City;
- C.** protect the health, safety and general welfare of the general public and occupants of the units;
- D.** protect the property values of surrounding properties;
- E.** retain open spaces to protect the environment and provide opportunities for passive and active recreation or residents;
- F.** promote a pedestrian-friendly, walkable streetscape;
- G.** provide for aesthetically pleasing development patterns; and
- H.** achieve the design principles of Figure 7.8-1 through compliance with the design standards in this Section 7.8.

Figure 7.8-1. Multi-Family Design Principles

Design Principles	Examples	
<p>Buildings. Create an identity for the project through a consistent design concepts while incorporating design features such as varied wall planes, rooflines and building form to create visual interest. Adjacent buildings should vary in design while having complementary design. Design and locate parking to minimize its visual impact along streets.</p>		
<p>Open Spaces. Incorporate the natural habitat into site design and design around natural and recreational amenities to create usable, accessible open spaces.</p>		
<p>Public Spaces. Design public spaces to provide accessible gathering places that encourage social interaction and a sense of community.</p>		
<p>Screening. Locate and screen loading, service and storage areas as well as mechanical and utility equipment.</p>		
		

Design Principles	Examples	
<p>Mobility. Establish a safe and comfortable environment, encouraging walking and bicycling.</p>		
<p>Landscaping. Use appropriate plantings to soften buildings and create more desirable areas for walking and bicycling within the development.</p>		

7.8.2. APPLICABILITY

- A. The provisions of this Section shall apply to multi-family residential developments for four (4) or more dwelling units as permitted by Table 8.1 of this Ordinance.
- B. Single-family homes and duplexes on individual lots are exempt from the standards of this Section, but still must follow Section 7.7.
- C. The City may modify bulk and density and/or parking and access standards for multifamily residential developments and single-family attached residential developments in TND, TOD, MX, PRD, PUD and conditional zoning districts, or approve open space and other design standards that result in a product that better achieves the design principles in Figure 7.8-1.

7.8.3. RULES OF CONSTRUCTION

For purposes of computing the number of dwelling units to determine applicability of the standards of this Section, the number of existing or proposed dwelling units within any tract of land plus all existing or proposed multi-family residential dwellings on any adjacent property under common ownership shall be counted.

7.8.4. BULK AND DENSITY STANDARDS

Notwithstanding any provision of Section 7.6.2 of this Ordinance to the contrary, the lot size, lot width, setback, and building separation standards shall conform to Table 7.6.2-A and 7.6.2-B.

7.8.5. OFF-STREET PARKING AND ACCESS STANDARDS

All projects shall conform to the parking requirements of Article 10.

A. Access to Public Street(s)

Developments with 40 or more dwelling units should have direct

primary access on a major or minor thoroughfare as shown on the Thoroughfare Plan. Developments for 100 dwelling units shall to have two (2) direct entrances onto at least one (1) major and/or minor thoroughfare as shown on the Thoroughfare Plan.

B. Off-street Parking

Multi family developments shall be subject to the following parking requirements:

1. No parking space shall be located in the required setbacks, except for the rear setbacks.
2. No off-street parking space shall be located closer than 10 feet to any residential building wall.
3. Access/Driveway Design
 - A. No driveway shall be located closer than 15 feet to any wall of a residential building.
 - B. All proposed drives shall be improved in accordance with the Manual.
 - C. For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided for all developments.
 - D. Median design shall be in conformity with the Manual.

7.8.6. COMMON OPEN SPACE

Common open space areas shall be required in accordance with Table 10.5 except as provided below:

- A. The Administrator may waive up to 50% percent of the open space requirement if all units within the development are located within 1,000 feet of a public park as measured along a public sidewalk, trail or bikeway.
- B. The open space requirements of this Section shall not apply to multi-family residential developments, which are second floor units above first floor commercial development, or to any residential developments in the CC zoning district, which are above the first floor.

7.8.7 OPEN SPACE CHARACTERISTICS

Land designated as open space shall be maintained as active open space and may not be separately sold, subdivided, or developed except as provided below. Open space shall be required in accordance with Section 10.5.

A. Open Space Provisions and Maintenance Plan Required

Any areas reserved as open space shall be indicated on a site plan. An Open Space Provision and Maintenance Plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open-space areas required by this Ordinance. The plan shall:

1. designate areas to be reserved as active open space. The specific design of open-space areas shall be sensitive to the physical and design characteristics of the site; and
2. specify the manner in which the open space shall be perpetuated, maintained, and administered.

B. Spacing and Dimensional Limitations

In order to ensure that all designated open space has suitable size, location, dimension, topography and general character, and proper road and/or pedestrian access, as may be appropriate, to be usable open space, the following standard shall apply:

1. Open space provided pursuant to this requirement shall be accessible to all residents of the development and shall measure at least 30 feet across its narrowest dimension.

C. Use of Stormwater Detention Basins

Retention areas or detention basins which are required as part of this Ordinance shall not qualify as an open space area unless 50 percent or more of the active and usable area is above the 10-year storm flood elevation and is designed for multiple uses and the area(s) conforms to the requirements of Subsections 1 and 2 below:

1. Retention or detention areas shall meander through the subdivision as a greenbelt, rather than as a single basin. Retention areas shall be improved so as to be useable and accessible. Retention areas shall not be inundated so as to be unusable for their designated recreational purposes.
2. Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming, and contouring are required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a three-to-one slope.

D. Preservation of Open Space

Open-space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained by the owner(s) of the development or a homeowner's association, which assumes full responsibility for its maintenance. The approved site plan shall provide that, in the event that any private owner of open space fails to maintain the open-space according to the standards of the Ordinance at the time of site plan approval, City Code Enforcement Officers may, following reasonable notice, require that deficient maintenance be corrected and direct appropriate City staff, or a private contractor, to enter the open space for maintenance purposes. The cost of such maintenance shall be charged to those

persons or entities having the primary responsibility for maintenance of the open space.

7.8.8 PEDESTRIAN FACILITIES

A. Sidewalks Required:

1. Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas. These interior sidewalks shall be constructed in accordance with the standards for sidewalks as set forth in the Manual.
2. Sidewalks, in combination with curb and gutter, shall be required adjacent to all public streets adjacent to the development. Such improvements may be subject to road widening and other related improvements. Road widening, sidewalks, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. Design standards shall be subject to review and approval by the City of Concord Transportation. Design standards for pedestrian upfits to state maintained roads shall be subject to review and approval by the City of Concord Traffic Engineer and the North Carolina Department of Transportation (NCDOT).

B. Bus Shelter Required

A bus shelter is required for multi-family development unless the school system and Concord-Kannapolis Area Transit document in writing that a shelter is not needed. The shelter shall be constructed at the location(s) (including at the perimeter of a development site) where a public school bus(es) pick-up/drop-off of children as established by the Cabarrus County School system. The shelter shall be constructed to a minimum size to accommodate the average number of children that may be awaiting pick-up. The shelter shall be included in the sidewalk design to ensure adequate access.

7.8.9 DIMENSIONAL AND DENSITY STANDARDS

The maximum impervious surface coverage (impervious surface ratio) shall conform to the standards as set forth and described in Article 4 and shown on Table 7.6.2-A for the appropriate zoning district. Multi-family or single-family attached developments that are allowed (by right or as conditional use) in non-residential districts shall use the dimensional and density standards of Table 7.6.2-A and 7.6.2.B as set forth for the RC district. Where a Watershed Overlay District exists, the more restrictive requirements shall apply.

The minimum spacing between multi-story buildings is 20 feet, plus one (1) foot for each one (1) foot of building height in excess of 30 feet. For

single story buildings containing one or two units, the minimum spacing shall be ten (10) feet.

7.8.10 BUILDING DESIGN

In order to provide interesting and aesthetically attractive multi-family developments and to avoid monotonous, “barracks”-style buildings, the following standards shall apply:

- A. Multi-family buildings shall have a multifaceted exterior form in which articulated facades are combined with window and door placements, as well as other detailing, to create an interesting and attractive architectural design which is comprised of more than flat walls with minimal features. (See Figure 7.8-1.)
- B. Buildings shall be arranged on multi-family sites in patterns that are not strictly linear. Adjacent buildings shall not be located in continuous straight lines. Limited linear building placements, which are part of an arrangement to define common space such as a courtyard, are acceptable.
- C. Building designs shall be varied so that adjacent buildings are complementary but clearly distinguishable by a combination of design features, such as building shape, building scale, entry designs, plantings, orientation or other design features.
- D. Entryways shall face a street, sidewalk, or common area. Buildings shall not face the rear of other buildings on the same lot or parcel.

7.8.11 UTILITIES AND LIGHTING

- A. All utility lines shall be located underground.
- B. Outdoor area lighting shall be provided for security. Such lighting shall be shielded to direct light downward and not into dwelling units on, or adjacent to, the multi-family site. Lighting shall be provided to illuminate the intersections of primary interior driveways and building entryways.

7.8.12 LANDSCAPING REQUIREMENTS

A landscaping plan shall be submitted which shall incorporate all applicable landscaping requirements as set forth in Article 11 of this Ordinance.

7.8.13 RECYCLING FACILITIES

Multi-family residential developments or single-family attached residential developments shall be required to provide a container(s) for the collection of recyclable materials. Such a container shall be subject to approval by the City’s Director of Environmental Services.

7.8.14 UNIT OWNERSHIP

Developments in which property is conveyed in Unit Ownership shall comply with the North Carolina Unit Ownership Act. Common areas, parking, landscaping, open space, and driveway facilities shall be under common ownership.

7.8.15 SIGNAGE

Signage for multi-family dwellings and/or single-family attached dwellings shall be subject to the sign standards as set forth in Article 12.

7.8.16 MULTI-FAMILY DEVELOPMENTS IN C-1 AND B-1 ZONING DISTRICTS

Apartment (see definition) development in C-1 zoning districts shall include at least 20 percent office or retail square footage as part of the project either in the same structure(s) or as separate buildings.

7.8.17 MULTI-FAMILY DIMENSIONAL STANDARDS

Multi-family development shall comply with the standards in Table 7.8.17

TABLE 7.8.17 - Multifamily Dimensional Standards

Density	See Table 7.6.2 A. * No density limits apply in the Center City (CC) district Multi-family units on the upper floors of commercial structures in B-1, C-1 and C-2 shall not be subject to density limits
Lot Width and Depth	See Table 7.6.2 A. *
Front Setback or	Developments of less than 40 dwelling units: see Table 7.6.2 B. *
Street Side Setback	Developments of 40 or more dwelling units: 50 feet, except that the minimum front setback may be reduced to 20 feet if all required off-street parking is located at the rear of the building(s).
Interior Side Setback	20 feet
Rear Setback	20 feet
Separation Between Buildings	20 feet, plus one (1) foot for each one (1) foot of building height in excess of 30 feet for multi-story buildings. 10 feet for single-story buildings containing one (1) or two (2) units.
Common Open Space	See Table (10.5) (Note: multi-family developments allowed in non-residential districts shall comply with the open space standards for residential districts in Table (10.5.13))
Maximum Building Length	180 feet

NOTES:

Multi-family or Single-family attached developments that are allowed (by right or as special use) in non-residential districts shall use the dimensional and density standards of Table 7.6.2 A. except as specified above. Multi-family or single family attached developments in the O-I district shall only be permissible as incidental to an institutional use (such as a church or school). In the B-1, C-1 and C-2 zoning districts, multi-family development shall only be permissible on thirty percent (30%) of the total land area of the parcel (exclusive of special flood hazard area and stream buffers). Density for multifamily development in the B-1, C-1 and C-2 zoning districts shall be calculated on the 30% of the total land area (less special flood hazard area and stream buffers) and not on the entire parcel.

7.8.18 MULTI-FAMILY BUILDING STANDARDS

- A. Building Length.** In attached multi-family projects, buildings shall not exceed 180 feet in length. Building facades should be broken up to give the appearance of a collection of smaller buildings. Long, unbroken building facades and simple box forms are prohibited.
- B. Clustering and Massing.** Clustering of multi-family units shall be a consistent site planning element. Buildings shall be designed as a series of varied plans that:
 - 1. Vary setbacks within the same building;
 - 2. Use of reverse building plans to add articulation; and
 - 3. Vary wall and rooflines.
- C. Unit Entryways.** In multi-family and attached housing each unit shall have distinct entries.
- D. Materials and Colors.**
 - 1. Buildings shall use distinct, but complementary materials and colors using a combination of the following materials:
 - a. Stucco or EIFS with smooth, sand or light lace finish;
 - b. Engineered fiber cement board, wood, as a primary and/or accent material;
 - c. Brick, as primary or accent material;
 - d. Split-faced block, as a primary and accent material;
 - e. Stacked stone, as an accent material;
 - f. Marble, travertine, or other related stone materials as accent materials; and
 - g. Unglazed tile as an accent and/or roofing material.
 - 2. The following materials are prohibited:
 - a. Metal or aluminum siding;
 - b. Unfinished concrete block, concrete tilt slab, and painted or white brick or block siding; and
 - c. Vinyl siding (note that vinyl may be used for soffit).
- E. Roofs.** Gable, shed, and hip roofs or a mixture of roof types to create articulation and ridgelines is required to break up long roof lines. Large expanses or flat roofs, gambrel or mansard roofs, and A-frame roofs are prohibited.
- F. Windows and Doors.**
 - 1. Windows shall be rectangular or round headed with various forms.
 - 2. Arches, gateways, entry courts shall be used to shelter doorways.
 - 3. Windows shall be located to minimize views of the private outdoor space of adjacent units' patio areas.
 - 4. Appropriate openings include:
 - a. Bay windows
 - b. French doors
 - c. Multi-lighted windows

- d. Rectangular windows
- e. Clerestory windows
- f. Round windows
- g. “Greenhouse” windows
- h. Wood, or simulated wood, single and double doors
- 5. Windows and doors shall not include:
 - a. Silver or gold window frames;
 - b. Reflective glass;
 - c. Windows flush with wall surface; or Non-anodized aluminum frame doors.

G. Stairways. Stairs shall be designed according to the following techniques:

- 1. Freestanding stairways shall not make a straight run from upper floors to the ground floors - they must have a landing and make a right angle turn.
- 2. External stairways should be built into courtyards and entry areas and not simply hung off the sides of buildings.
- 3. Exterior stairways should employ design features such as insets, reveals, decorative tile, or stucco texturing, and decorative handrails.
- 4. The use of enclosed staircases is preferred over exterior staircases.
- 5. External stairway walls shall be smooth or sand finish stucco, block, stone, slate, or other opaque building material with an accent trim cap or banding of tile
- 6. Exposed prefabricated metal stairs and transparent walls are prohibited.

H. Additional Architectural Elements

- 1. All antennas shall be placed in attics or interior of the residence. Developments shall be pre-wired to accommodate cable or satellite reception.
- 2. Metal, canvas or vinyl awnings of solid accent colors are permitted in moderation.
- 3. Patio trellises, and other exterior structures may be built of stucco or wood or block, with finishes complying with the overall color palette for the project.
- 4. Chimneys as an architectural form shall be simple and project from main wall surfaces. Stone or tile accents and articulation details are encouraged.
- 5. Garage doors should appear to be set into the walls rather than flush with the exterior wall.
- 6. Roof mounted mechanical equipment shall be screened from view in a manner consistent with the building façade.
- 7. Ground mounted mechanical equipment shall be screened from view with landscaping or solid fencing.

7.8.19 ACCESSORY STORAGE

Accessory storage is required for multifamily developments of 240 or more

dwelling units in the following manner:

- A. May be constructed as an accessory to a multi-family development for the exclusive use of residents of the multi-family development.
- B. Shall not be located between the multi-family structure and any public street.
- C. Are limited to a single story in height.
- D. Shall use the same siding materials and be designed to reflect the style of multi-family buildings
- E. Shall use the same roofing materials and have rooflines that reflect those of the multi-family buildings
- F. Shall be provided at the rate of 100 square feet per dwelling unit, but not to exceed more than 200 square feet per dwelling unit.
- G. In lieu of accessory storage in a separate structure, storage may be attached or incorporated into individual dwelling units.

7.9 CENTER CITY (CC) DESIGN STANDARDS

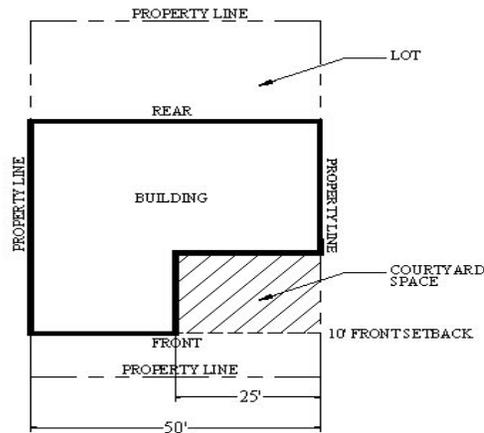
7.9.1 PURPOSE

This Article protects the historic and aesthetic character of downtown Concord, by ensuring quality design and appropriate materials are used in the construction of new buildings. In addition to all other design and improvement regulations within this Ordinance, sites and buildings within the CC District (Downtown Concord) are regulated in accordance with specific standards described herein.

7.9.2 PEDESTRIAN SPACES, BUILDING SETBACKS, AND ENTRIES

- A. The intent of the pedestrian space is to allow the property owner to develop a usable size space for gathering, including but not limited to, outdoor seating, art displays, eating, or a plaza. The pedestrian space shall be accessible, visible, and easy to use. Substantial grade changes creating isolated or hidden spaces are prohibited.
- B. Setbacks may be staggered to create a private pedestrian space. The maximum front yard setback for a portion of the building may be increased to any depth for the purposes of creating a patio or courtyard space so long as at least 50 percent of the total building frontage meets the minimum setback of the associated zoning district. (Example: A building with 50 linear feet of frontage and a 10-foot front setback requirement is allowed to have 25 feet of frontage that could set back greater than 10 feet. (See Figure 7.9-1.) For corner lots, this provision may be used to create a corner public space.

Figure 7.9-1: Illustration Showing Staggered Setback



- A. Where the pedestrian space is adjacent to the public right of way, there shall be an architectural (or defined) edge that complies with all requirements of the CC District to define the pedestrian space. All buildings shall have their principal entrance opening to a street, sidewalk or pedestrian space such as a courtyard, square or plaza. The principal entrance shall not open onto an off-street parking lot. Pedestrian access from the public sidewalk, street right-of-way or driveway to the principal structure shall be provided through appropriate pedestrian paving and landscaping where required.
- D. Landscaping is required and shall include a combination of trees, groundcover and plants as required by Article 11 of this ordinance; however, the following shall supersede the landscape requirements of Article 11:
 1. Within the pedestrian space, one (1) canopy tree must be planted for each 500 square feet; or one (1) ornamental tree for each 250 square feet of created pedestrian space.
 2. A minimum of one (1) ornamental tree is required for any space of 250 square feet or less.
 3. Existing street trees should not be removed as part of the creation of a pedestrian space. Any existing trees or plant material, which is part of a previously approved landscape plan, shall be replaced.
- E. The following permitted amenities within the interior of the non-public pedestrian space include but are not limited to: ornamental fountains, stairways, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, decorative benches, tables and similar structures.

7.9.3 SIGNAGE

- A. Liquid crystal display (LCD), electronic message centers, flashing or blinking signs are not permitted in the CC District. All other signage in the CC District shall comply with Article 12 of the CDO.

- B. Neon signage in the Center City District is permitted under the following conditions:
 1. Neon signs shall only comprise 5% of the total allowed signage area.
 2. A sign application shall be submitted to the Development Services Department for review, along with a recommendation from the Concord Downtown Development Corporation for all proposed window signs.
- C. All window signs shall come into conformity with the current standards and requirements of this ordinance within 6 months of the date of adoption of this Article.

7.9.4 GENERAL DESIGN STANDARDS

In order to promote pedestrian activity and to avoid the impacts of traffic crossing sidewalks, the following uses shall be regulated as follows:

- A. The first floor (street level) of any new multi-story building shall be devoted to retail, commercial, and service uses, as listed in Article 8. Such buildings shall include said uses along not less than 50 percent of its street frontage. Residential dwellings shall be permitted above the first floor of any building with commercial and/or retail uses on the first floor.
- B. No “auto-oriented” use(s) as defined in Article 14 and allowed in the City Center district pursuant to Table 8.1.8 shall be located within 400 feet of another auto-oriented use, as measured from the exterior boundaries of the buildings, or not more than one shall be located along any single block frontage, whichever is less.
- C. Accessory structures, additions, remodels and rehabilitation projects shall be designed and constructed using the same general form and materials as the principal building, provided that the principal building is architecturally consistent with the general character of the CC District. For the purposes of this ordinance, brick and/or brick with stucco is considered the general character of the buildings in the Center City.
- D. The design requirements of this section apply to all building walls that are visible from any public right-of-way.
- E. The preferred wall material for structures in the CC district is brick or predominantly brick colored material that is complementary to surrounding structures. The administrator may waive the brick requirements based on certain circumstances included, but not limited to:
 1. Stucco may be approved to cover damaged or deteriorated brick.
 2. Structural wood may be used as decorative elements as trim, in windows or on doors.

Any waivers beyond the authority of the Administrator shall be subject to approval by the Planning and Zoning Commission.
- F. Metal siding, unfinished concrete block, precast concrete, or split-faced block, shall not be allowed for any building surface unless the

Administrator determines that the materials result in a superior design to otherwise allowed materials and the resulting development is compatible with abutting development. The burden of proof relative to superior design and compatibility shall rest with the applicant. Split-faced block may be used as an accent material so long as it does not cover more than 20 percent of the total building surfaces, and vinyl siding may be allowed as soffit material.

- G. The first floors of all buildings shall be designed to encourage and to complement pedestrian-scale activity by the use of windows and doors arranged so that the uses are visible from and/or accessible to the street on not less than 50 percent of the length of the first floor street frontage. Not less than 50 percent of the length and 25 percent of the surface of the primary structure(s) shall be in public entrances or windows (including retail display windows). Where windows are used, they shall be transparent. Solid walls shall not exceed 20 feet in length. All street level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access that may be provided.
- H. Window glass shall be recessed a minimum of two (2) inches from the building face rather than flush. Vinyl windows are not permissible on the first floor of any building in the CC district, nor on any commercial space nor on contributing or pivotal structures in the CC National Register Districts. All materials shall be identified on the architectural drawings submitted for review.
- I. Glass surfaces must be transparent or lightly tinted, allowing views from habitable areas within the building to the street or property line, and allowing passers-by a view into the habitable area of the building. Shelves and/or fixtures shall not obstruct the view to the interior of the building. Submitted plans shall clearly indicate the type of glass being used and its reflectivity index.
- J. Doors shall be recessed into the face of the building (to provide a sense of entry and to add variety to the streetscape). An entryway shall not be less than one (1) square foot for each 1,000 square feet of floor area, and in all cases shall not be less than 15 square feet.
- K. Decorative fences such as those constructed of brick and wrought iron are allowed within the CC District. Screening fences shall be opaque and either painted or stained with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable except around construction sites. Plywood, sheet metal, fiberglass or other such panel fences are also prohibited. Temporary plywood screening fences shall be allowed during construction.
- L. Canopies, awnings, and similar appurtenances may be constructed over the entrance to any building, and/or over windows subject to the following criteria:
 - 1. Such appurtenances shall be constructed of material designed to

- complement the streetscape.
2. In no instance shall these appurtenances utilize internal illuminated backlights in their design or mounting.
 3. Awnings shall be made of canvas or treated fabric/canvas material. Awnings may also be made of metal with the following conditions:
 - a. Any awning on a pivotal or contributing historic property in a National Register District or on any property individually listed on the National Register must be consistent with the Secretary of the Interior's Standards.
 - b. Vinyl or Plexiglas awnings are not permitted.
 - c. An encroachment agreement is required for awnings or signs that hang over the public rights-of-way.
 - d. Any such appurtenance may extend from the building to up to 80 percent of the width of the sidewalk area in front of the building or nine (9) feet, whichever is less, subject to any encroachment permit which may be required by the North Carolina Department of Transportation, or the City. In addition, the property owner shall carry liability insurance in the amount of \$500,000. The City Attorney's office may ask for verification of this coverage when reviewing encroachment permits.
 - e. Such appurtenances shall be self-supporting. In no case shall supports for such appurtenances extend to the sidewalk and/or ground within the public right of way.
 - f. In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with the growth or maintenance of street trees, or maintenance of streetlights or street signs.
 - g. A minimum overhead clearance of eight (8) feet from the sidewalk shall be maintained.
 - M. Any lot, which becomes vacant through the removal of a structure for any reason must be screened from all abutting public street rights of way in accordance with the provisions of this ordinance or cleared of rubbish and debris and seeded with grass or other appropriate landscaping material. If the lot is to be used for parking, either as a transitional or permanent use, it must meet all the minimum requirements for that use as established by this ordinance.
 - N. A site plan is required as per Article 5 along with architectural elevations or perspective drawings.

7.9.5 PROHIBITED ALTERATIONS

In no such case shall any existing window opening be enclosed so as to create a solid wall. In situations where alterations of original windows have been completed prior to the adoption of this Ordinance, restorative measures to return the opening to its original existence shall be made when additions or alterations are made to the existing structure, unless otherwise prohibited by State Building Code.

7.9.6 PARKING CRITERIA

Uses within the CC are not required to provide off-street parking; however this section is applicable in those instances where surface parking is proposed. Parking for renovated and rehabilitated buildings is exempt from the following requirements unless new rentable gross floor area is added or created.

- A. In order to maintain a pedestrian friendly street edge, no off-street surface parking shall be permitted between the principal structure and the street right-of-way. Parking is permitted on the sides of buildings, but the maximum width shall not exceed 60 feet (two rows including drive aisle). Such parking shall be screened with landscaping with evergreen plant material that reaches a mature height of no less than three (3) feet. Off-street surface parking areas, which are screened from the view from public streets by the principal buildings, except for the limited view through the driveway providing access to parking, shall provide one (1) ornamental tree and five (5) shrubs for lots with fewer than 10 spaces. For lots with more than 10 spaces, one (1) shade tree or (2) ornamental trees and eight (8) shrubs shall be required per 10 parking spaces. Plantings for more than 10 spaces shall be calculated proportionately, with one tree or shrub being required for each fraction of 0.5 plant or greater. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
- B. The administrator may allow a decorative masonry wall or a combination of a wall with plantings in lieu of parking lot yards if one or more of the following conditions exist:
 1. The parking lot contains six (6) or fewer spaces
 2. The site on which the parking is located contains a designated historic structure
 3. The presence of lot yards complicates deliveries necessary for the day-to-day operations of the principle structure.

7.9.7 LOADING AND UNLOADING AREAS

Where feasible, loading/unloading areas shall be located only in the rear or side yard.

7.9.8 STRUCTURED PARKING FACILITIES

In addition to the above listed requirements, structured parking facilities shall be subject to the following criteria:

- A. Structured parking must be designed so that the only openings at the street level are those to accommodate vehicle entrances and pedestrian access to the structure.
- B. In the event that any openings for ventilation, service or emergency access are located at the first floor level in the building wall then they must be decorative and must be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances

must be designed so that cars parked inside are not visible from the street. The remainder of the street level frontage must either be occupied retail space or an architecturally articulated wall designed to screen the parking areas of the structure, to encourage pedestrian activity and to provide for urban open space. Parking garages shall be architectural compatible with those in the CC district.

- C. Cars on all levels of a structured parking deck must be screened from view from the street utilizing decorative elements such as grillwork or louvers. In no instance will cabling alone be sufficient to meet this screening requirement.
- D. The design requirements of this section apply to all building walls, which are visible from any public right-of-way.

7.9.9. STREETScape PROTECTION

- A. Any damage to the existing streetscape design, including street trees, by development, use or condition of private property shall be corrected by the property owner at the owner's expense to the satisfaction of the City of Concord, prior to the release of a certificate of occupancy.
- B. The City, the cost of which is to be billed to the owner, including city administrative costs, shall correct any damage not corrected by the owner.

7.9.10 COMPLIANCE

A site plan is required as per Article 5 along with architectural elevations or perspective drawings compiling with the requirements of this Ordinance. In no case shall a Certificate of Compliance (COC) be issued if the design requirements covered in this Ordinance have not been met.

7.10 SUPPLEMENTAL DESIGN STANDARDS AND REQUIREMENTS

FOR COMMERCIAL DISTRICTS

7.10.1 PURPOSE AND SCOPE

The purpose of this Section is to improve the overall design and appearance of commercial buildings and property. Specifically, these standards are intended to enhance community aesthetics (through the use of quality building design, landscaping, and signage), maintain and strengthen property values, promote Concord as a high-quality community (by creating developments that attract quality jobs and businesses), and implement the goals and polices of the Concord Land Use Plan.

7.10.2 APPLICABILITY

A. New Construction

This Section applies to all new construction on O-1, B-1, C-1, and C-2 districts. In addition to all other regulations within this Ordinance, sites and buildings within the O-1, B-1, C-1, and C-2 zoning districts are regulated in accordance with specific standards as listed below. These standards shall apply in PUD and site plan controlled districts unless the City finds that the proposed deviation results in a superior design that better achieves the purpose of this section.

The Administrator, or his designee, may allow modifications to individual requirements of this Section on a case-by-case basis for buildings not fronting on a major or minor thoroughfare or for infill development upon finding that the purposes of this section are achieved and the modification results in a project of equal or better design quality. The burden of proof relative to design quality and compatibility shall rest with the applicant.

B. Additions to Existing Development

Additional construction that is 25 percent or less of the floor area of the existing building shall be subject only to the building setbacks and minimum parking standards. If additional parking is required, parking lot yard landscaping shall be required as set forth in Article 11.

Additional construction that is more than 25 percent of the floor area of the existing building shall be subject to all of the requirements of this Section. The Administrator, or his designee, may allow modifications to individual requirements of this Section on a case-by-case basis upon finding that the purposes of this section are achieved and the modification results in a project of equal or better design quality that is compatible with existing development in the vicinity of the project. The burden of proof relative to design quality and compatibility shall rest with the applicant.

C. Redevelopment

1. Small Projects. For redevelopment or remodeling projects involving buildings with less than 5,000 square feet of gross floor area, projects costing 25 percent or more of assessed value shall be required to comply with the City's sidewalk requirements. No more

than one project in a 365-day period, on the subject property shall be permissible. For redevelopment or remodeling projects involving buildings with 5,000 square feet or more of gross floor area, projects costing 25 percent or more of assessed value shall be required to comply with City requirements for sidewalks, curbs and gutters.

2. **Large Projects.** For redevelopment or remodeling projects costing more than 50 percent of assessed value, all of the provisions of section 7.10 shall apply except that existing nonconformities due to existing rooflines and the existing locations of walls and parking areas may be retained.
3. **Assessed Values.** Assessed values shall be the assessed building values in the Cabarrus County tax records.
4. **Improvement Values.** Improvement values shall be the building permit improvement cost estimates as determined by Cabarrus County.

7.10.3 SIGN REGULATIONS

Signs shall be regulated in accordance with standards set forth in Article 12 of this Ordinance, or by an approved comprehensive sign package.

7.10.4 ELECTRICAL AND SERVICE EQUIPMENT

HVAC and similar types of incidental machinery or equipment shall be screened from view, or located in such a manner as to not be visible from a public street. Trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes and antennas shall be screened from view.

7.10.5 ARCHITECTURAL PLANS

Architectural plans shall depict architectural details outlined in this Section and shall consist of:

- A. Preliminary renderings of building elevations plus typical cross sections to clearly define the character of the project; and
- B. Exterior building materials inventory to indicate compliance with this Section.

7.10.6 COMPLIANCE

Architectural details and/or drawings shall be submitted to the administrator at the time of site plan submittal. All requirements of this ordinance must be met before a Certificate of Compliance (COC) can be issued.

7.10.7 KEY DESIGN CONSIDERATIONS

The following key design considerations shall be applied to all development subject to this section at the time of site plan review:

A. Compatibility

Adjacent buildings within a development shall have compatible scales, bulk, height, architectural styles and roof styles. Development shall use a combination of plantings, buffers and building design to ensure compatibility with adjacent residential development.

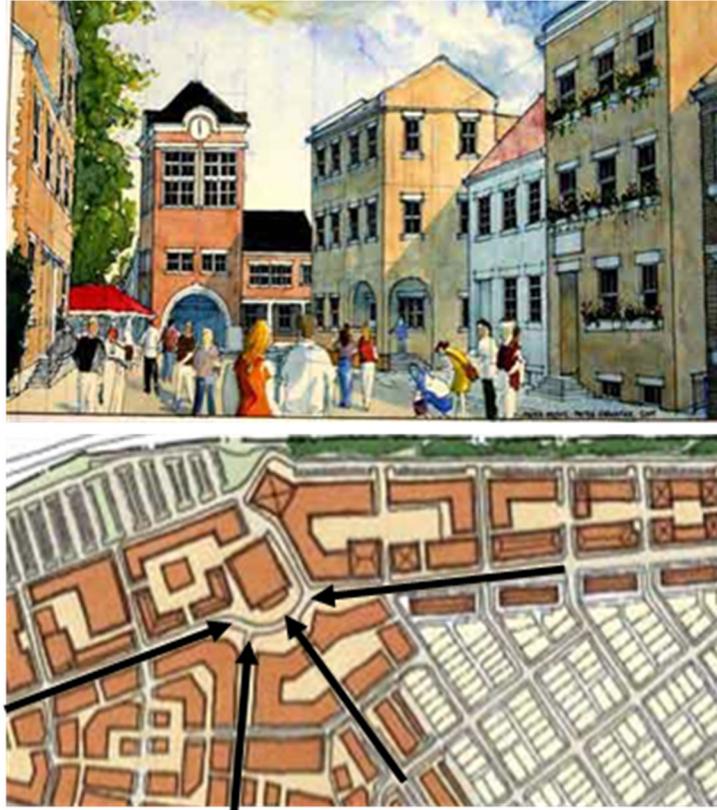
B. Proportions

Windows, doors, columns, piers, projections, ribs, awnings, cornices, parapets, eaves, and other building components shall be proportional to the overall scale of the building. Windows should be greater in height than width, unless otherwise required by a specific design feature or architectural style.

C. Termination of Vistas

Entry drives or drives within the site or from significant adjacent streets shall be terminated in a focal point, such as a building or other significant architectural or landscape feature. (See Figure 7.10-1.)

Figure 7.10-1: Termination of Vistas



7.10.8 BUILDING AND SITE DESIGN STANDARDS

The following design elements shall be incorporated in architectural and site plans:

A. Building Entrance

Primary building entrances shall be clearly defined, and shall be recessed or framed by a sheltering element such as an awning, arcade, overhangs, or portico (in order to provide weather protection for pedestrians). Public entrances flush with the building wall with no cover are not allowed. (See Figures 7.11-2.)

B. Boulevard Entrance

For developments containing total floor area in excess of 80,000 square feet, the principal access into the site shall be a boulevard incorporating a 10-foot wide landscaped center median.

C. Transit Stops

Transit bus stop may be required if the development is located on an existing or planned public transit route, which shall be determined by transit plans and the Transit Administrator.

D. Outdoor Space

Each site shall be designed to include public pedestrian walkways throughout the development linking all facilities open to the public, which shall include one (1) or more plazas or courtyards with benches, or patios/ seating areas. For developments containing total floor area in excess of 80,000 square feet, at least one (1) outdoor space or site

amenity such as a public square, park, or outdoor playground area on the site, or on adjacent land. All features shall be accessible, useable spaces. Outdoor space or design elements may include, but are not limited to:

1. Window shopping walkway
2. Water feature
3. Clock tower
4. Seating walls
5. Benches
6. Courtyards or plazas
7. Fountains
8. Sculpture or public art

The Administrator may approve any other such deliberately shaped area or focal feature or amenity that, in the judgment of the Administrator, adequately enhances such community and public spaces.

E. Sidewalks

All buildings, parking areas, public spaces, amenity features, and adjoining developments of similar use, shall be linked with sidewalks. Sidewalks shall be provided along public streets that provide access to the development. These interior sidewalks shall be constructed in accordance with the standards for sidewalks as set forth in Article II section 10.20 of the TSM.

F. Exterior Materials

Exterior building materials shall include brick, stone, stucco, synthetic stucco, or cement-board or wood siding. Metal and split-faced concrete block may be used as accent material, and cumulatively may not exceed 20 percent of the area of any individual exterior wall. Highly reflective materials such as bright finished metal and tinted glass shall not be used as the primary building material. When two (2) or more materials are used on an exterior wall, the heavier material (e.g., brick) shall be placed below the lighter material (e.g., stucco). All windows and doors at the ground floor level on any retail building shall be transparent.

G. Roof Pitch

Flat roofs and roofs with a pitch of less than 3:12 require a parapet wall. Eaves a minimum of one (1) foot from the building face shall profile a pitched roof. Roofing for pitched roofs greater than 6:12 shall be wood, tile, slate, architectural asphalt shingles, or low-reflectivity metal (flat or matte finish). Applied mansard roofs shall not be permitted.

H. Parapet Walls

Average parapet height shall not exceed 15 percent of the supporting wall height. Maximum parapet height shall not exceed 33 percent of the supporting wall height. (See Figures 7.11-2.)

I. Facade/Wall Treatment

Facades shall have a recognizable "base" consisting of (but not limited to): walls, ledges, sills, integrally textured materials (such as stone or other masonry), integrally colored and patterned materials, or planters. Facades shall also have a recognizable "top" consisting of (but not limited to): cornice treatments with integrally textured materials (other than colored "stripes" or "bands"), sloping roofs (with overhangs and brackets), or stepped parapets. All sides of a building and any accessory structure shall utilize materials and design characteristics consistent with those of the front facade. In order to prevent large flat expanses of featureless exterior walls, recesses, projections, columns, offsets, or change in building wall plane shall be required every 50 feet of building wall length. No uninterrupted length of any façade shall exceed 50 feet. Projections, recesses, and decorative columns shall be a minimum of one foot wide and one foot deep. Structural columns supporting a portico, porch, or overhang shall meet these requirements. (See Figures 7.11-2.)

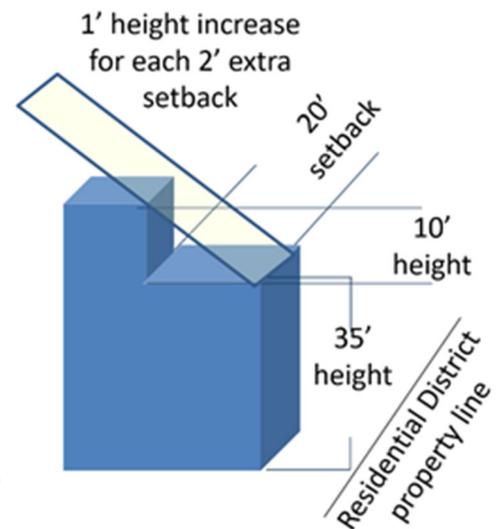
J. Design Elements

At least four (4) of the following elements must comprise 60 percent of front façade length and 40 percent of any façade length fronting a public street or parking lot:

1. Parapets
2. Cornices
3. Roofline offsets
4. Windows or doors
5. Window hoods
6. Transoms
7. Bulkheads
8. Awnings or canopies
9. Ribs or columns
10. Changes in texture or masonry

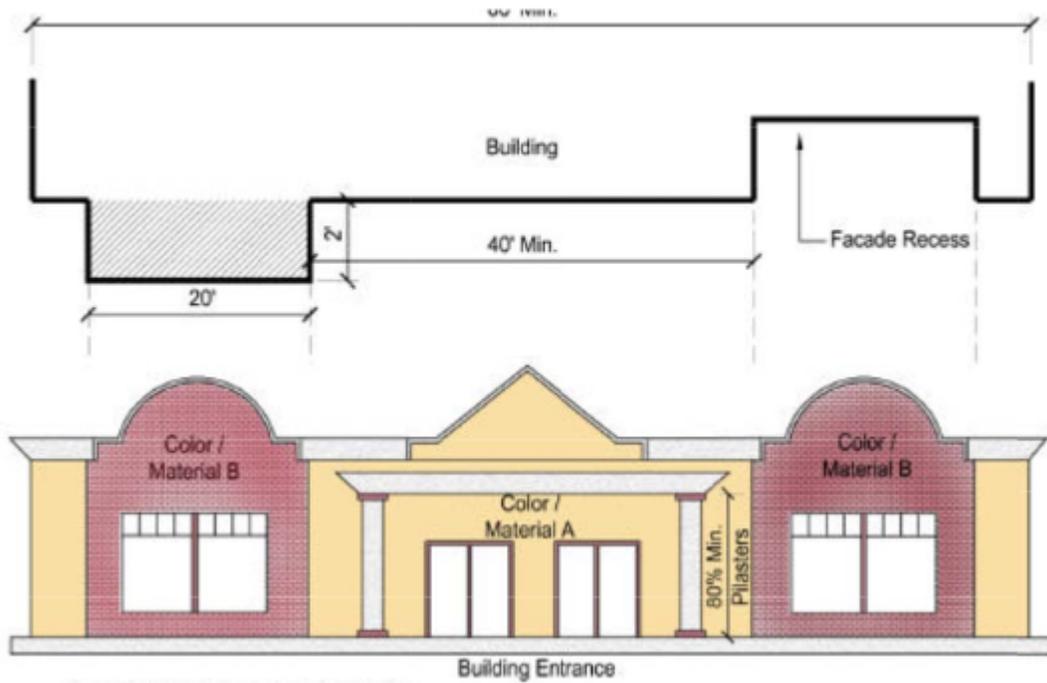
K. Height Transitions

On parcels that abut residential zoning districts, portions of the building exceeding thirty-five (35) feet shall be setback an additional two (2) feet from the required building setback for each foot of height in excess of thirty-five (35) feet. For purposes of this provision, the height transition shall be measured from average grade along the nearest building line facing any property line of a residentially zoned lot to the

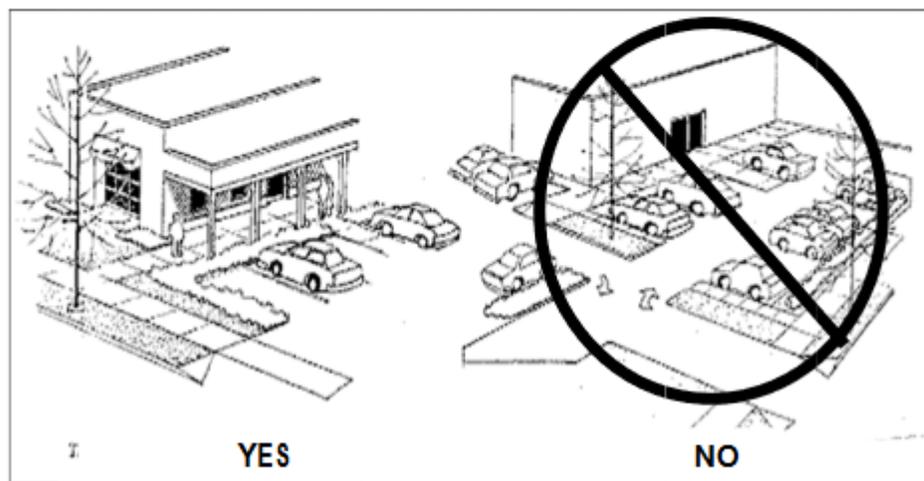


highest point of the non-residential structure.

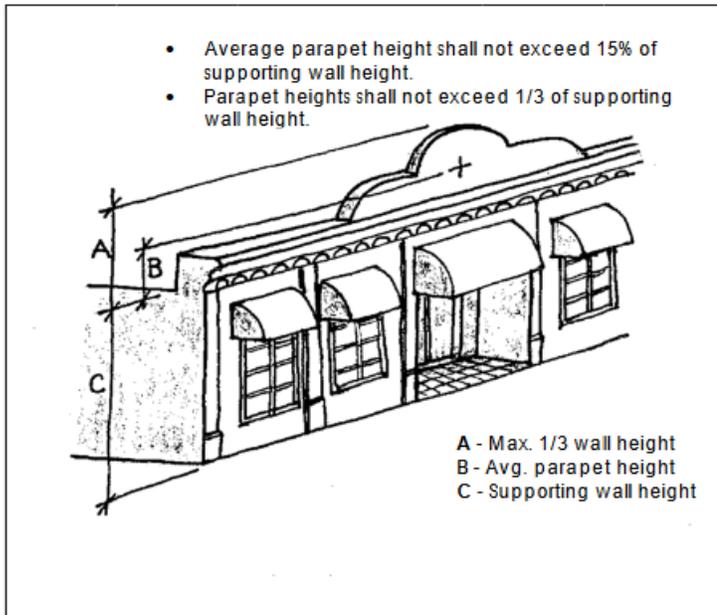
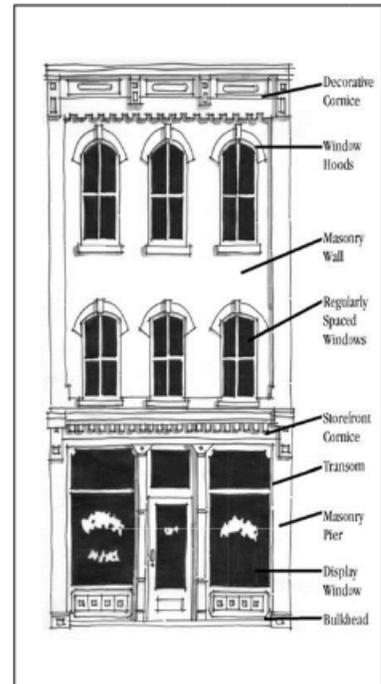
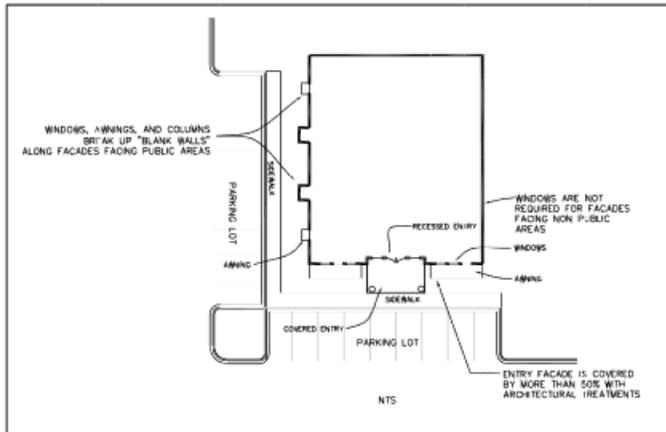
Figures 7.11-2



Note: Material changes may be used in lieu of or in addition to facade offsets



Figures 7.11-2 Continued



7.11 SUPPLEMENTAL DESIGN STANDARDS AND REQUIREMENTS FOR INDUSTRIAL DISTRICTS

7.11.1 PURPOSE AND SCOPE

The purpose of this Section is to improve the overall design and appearance of industrial buildings and property. Specifically, these standards are intended to enhance community aesthetics (through the use of quality building design, landscaping, and signage), maintain and strengthen property values, promote Concord as a high quality community (by creating developments that attract quality jobs and businesses), and implement the goals and policies of the Concord Land Use Plan.

7.11.2 APPLICABILITY

A. New Construction

This Section applies to all new construction in I-1 and I-2 districts. The Administrator, or his designee, may allow modifications to individual requirements of this Section on a case-by-case basis for buildings not fronting on a major or minor thoroughfare or infill development upon finding that the purposes of this section are achieved and the modification results in a project of equal or better design quality. The burden of proof relative to design quality shall rest with the applicant.

B. Additions to Existing Development

Additional construction that is 25 percent or less of the floor area of the existing building shall be subject only to the building setbacks and minimum parking standards. If additional parking is required, parking lot yard landscaping shall be required as set forth in Article 11.

Additional construction that is more than 25 percent of the floor area of the existing building shall be subject to all of the requirements of this Section. The Administrator, or his designee, may allow modifications to individual requirements of this Section on a case-by-case basis upon finding that the purposes of this section are achieved and the modification results in a project of equal or better design quality that is compatible with existing development in the vicinity of the project. The burden of proof relative to design quality shall rest with the applicant.

C. Redevelopment

Redevelopment or remodeling that involves construction costs equal to or greater than 50 percent of the assessed value of site improvements according to the most recent property tax rolls shall be brought into conformance with the provision of section 7.10 except that existing nonconformities due to existing rooflines and the existing locations of walls and parking areas may be retained. The Administrator, or his designee, may modify individual requirements of this Section on a case-by-case basis upon finding that the purposes of this section are achieved and the modification results in a project of equal or better

design quality. The burden of proof relative to design quality shall rest with the applicant.

7.11.3 SIGN REGULATIONS

Signs shall be regulated in accordance with standards set forth in Article 12 of this Ordinance, or by an approved comprehensive sign package.

7.11.4 ELECTRICAL AND SERVICE EQUIPMENT

HVAC and similar types of incidental machinery or equipment such as trash receptacles, dumpsters, utility meters, above-ground tanks, satellite dishes and antennas shall be screened from view from public streets that are external to the development project, internal collector or arterial streets, abutting residential zoning districts, and public parks.

7.11.5 ARCHITECTURAL PLANS

Architectural plans shall depict architectural details outlined in this Section and shall consist of:

- A. Preliminary renderings of building elevations plus typical cross sections to clearly define the character of the project; and
- B. Exterior building materials inventory to indicate compliance with this Section.

7.11.6 APPROVALS

The Administrator shall review all site plans for industrial development. The Administrator may modify the specific provisions of the design standards of this section 7.11 upon finding that the alternative design is consistent with other sites within the same industrial development and the purposes of the applicable provision are achieved through the alternative design.

7.11.7 COMPLIANCE

Architectural details and/or drawings shall be submitted to the administrator at the time of site plan submittal. All requirements of this ordinance must be met before a Certificate of Compliance (COC) can be issued.

7.11.8 INTERNAL AND EXTERNAL COMPATIBILITY

Buildings that are visible from streets abutting the development and from internal collector and arterial streets shall have compatible scales, bulk, heights, architectural styles, and roof styles. Development shall use a combination of plantings, buffers and building design to ensure compatibility with adjacent development.

7.11.9 BUILDING AND SITE DESIGN STANDARDS

The following design elements shall be incorporated in architectural and site plan:

A. Building Entrance

Primary building entrances shall be clearly defined and shall be recessed or framed by a sheltering element such as an awning, arcade, overhangs, or portico (in order to provide weather protection for pedestrians). Public entrances flush with the building wall with no cover are not allowed. (See Figures 7.11-2.)

B. Boulevard Entrance

For developments containing total floor area in excess of 250,000 square feet, the principal access into the site shall be a boulevard incorporating a 10-foot wide landscaped center median for a depth of at least 100 feet in depth.

C. Transit Stops

Transit bus stop may be required if the development is located on an existing or planned public transit route, which shall be determined by transit plans and the Transit Director.

D. Sidewalks

Sidewalks shall be required along all public streets within an industrial development unless a comparably functioning trail system is provided. All buildings, parking areas, public spaces, amenity features, and adjoining developments of similar use, shall be linked with sidewalks. Sidewalks shall be provided along public streets that provide access to the development. These interior sidewalks shall be constructed in accordance with the standards for sidewalks as set forth in Article II section 10.20 of the TSM.

E. Exterior Materials

Exterior building materials may include painted tilt-up concrete, brick, stone, stucco, synthetic stucco, metal wall panels, or cement-board or wood siding. The Administrator may approve alternative materials of equal or better quality and durability. Metal and split-faced concrete block may be used as accent material provided that cumulatively they do not exceed 20 percent of the area of any individual exterior wall visible from an existing or proposed public street or adjacent parcel located outside the industrial development in which the building is located.

Metal may be utilized exclusively on 1) walls not visible from an existing or proposed public street or adjacent parcel located outside the industrial development in which the building is located, or 2) on manufacturing facilities of more than two stories in height.

When two (2) or more materials are used on an exterior wall, the heavier material (e.g., brick) shall be placed below the lighter material (e.g., stucco).

The Administrator or his designee may allow modifications to the required materials on a case-by-case basis. The applicant shall document through photo or photo simulations that areas using alternative materials are not visible from public streets or adjacent developments. The burden of proof in justifying alternative materials shall rest with the applicant.

F. Parapet Walls

Average parapet height shall not exceed 15 percent of the supporting wall height. Maximum parapet height shall not exceed 33 percent of the supporting wall height. (See Figures 7.11-2.)

G. Facade/Wall Treatment

Facades shall have a recognizable "base" consisting of (but not limited

to): walls, ledges, sills, integrally textured materials (such as stone or other masonry), integrally colored and patterned materials, or planters. Facades shall also have a recognizable “top” consisting of (but not limited to): cornice treatments with integrally textured materials (other than colored “stripes” or “bands”), sloping roofs (with overhangs and brackets), or stepped parapets.

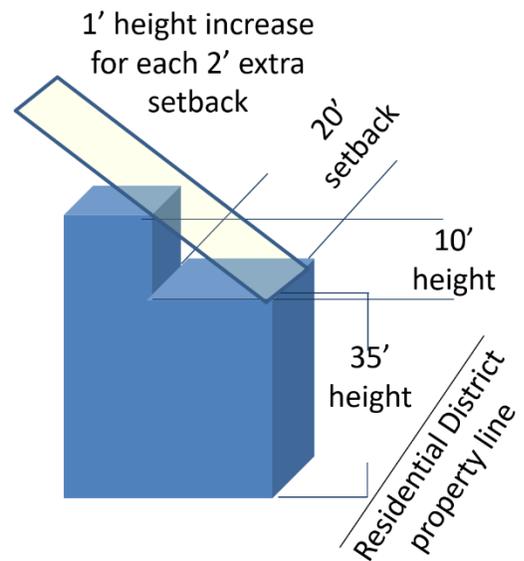
H. Design Elements

For building facades that are visible from streets external to a development or from internal collector or arterials streets, at least four (4) of the following elements must comprise 15 percent of front façade length:

1. Parapets
2. Cornices
3. Roofline offsets
4. Windows or doors
5. Window hoods
6. Transoms
7. Bulkheads
8. Awnings or canopies
9. Ribs or columns
10. Changes in texture or masonry

I. Height Transitions

On parcels that abut residential zoning districts, portions of the building exceeding thirty-five (35) feet shall be setback an additional two (2) feet from the required building setback for each foot of height in excess of thirty-five (35) feet. For purposes of this provision, the height transition shall be measured from average grade along the nearest building line facing any property line of a residentially zoned lot to the highest point of the non-residential structure.



ARTICLE 8

USE REGULATIONS

Summary: This Article establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts as established in Article 7. If the use is listed as a permitted use or special use, the criteria or supplemental standards set forth in this Article must be satisfied before an application for development approval will be approved or issued. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of the Comprehensive Plan.

8.1 USE TABLE4

8.2 USE CATEGORIES 13

8.3 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES34

8.4 ACCESSORY USES 84

8.5 HOME OCCUPATIONS 92

8.6 TABLE 8.6-1 96

8.7 WIRELESS COMMUNICATION FACILITIES 98

8.8 TEMPORARY USES 109

8.9 SPECIAL REGULATIONS FOR ELIGIBLE FACILITIES 112

ARTICLE 8. USE REGULATIONS

8.1 USE TABLE

8.1.1. GENERAL

8.1.2. No use shall be permitted pursuant to this Ordinance, and no Development Permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless all applicable permits and approvals have been issued by the agency or official with final decision-making authority. Those uses permitted as Primary Uses or Buildings within each zoning district shall be those uses listed in the Use Table 8.1.8

8.1.3. Permitted Accessory Uses are set forth in § 8.5 while permitted Temporary Uses are set forth in § 8.8. If a Primary use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 8.5, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

8.1.4. Notwithstanding any provision of this Article to the contrary, uses which are preempted by state statute may not be listed in the Use Table, and may be permitted in accordance with state law.

8.1.5. Uses in the PUD, PRD, TND, MXD, HPOD and PID districts shall be governed by their respective Sections in this Ordinance and are not included in the Use Table.

8.1.6. The names of uses in the permitted use table and section 8.2.2. are generic and based on common meanings, not on what a use may be called by the public, applicant or owner. The Administrator shall define suggested uses to fit into the definitions found in this Ordinance.

8.1.7. USE TABLE KEY

A. Types of Use

1. USES PERMITTED BY RIGHT (P)

The letter “P” indicates that the listed use is permitted by right within the zoning district. Permitted uses are subject to all other applicable standards of this Ordinance.

2. PERMITTED USES WITH SUPPLEMENTAL REGULATIONS (PS)

The letters “PS” indicates that the listed use is a use permitted by right within the zoning district. However, the use is also subject to specific design regulations as prescribed in § 8.3. The specific reference is indicated in the “Standards” column of the use table.

3. SPECIAL USES (S)

The letter “S” indicates that the listed use is permitted within the respective zoning district only after review and approval of a Special Use Permit in accordance with Article

6.2. Special Uses are subject to all other applicable standards of this Ordinance and any Supplementary Use Regulations which apply to said use.

4. SPECIAL USES WITH SUPPLEMENTAL REGULATIONS (SS)

The letters “SS” indicates that the listed use is a special use within the zoning district. However, the use is also subject to specific design regulations as prescribed in § 8.3. The specific reference is indicated in “Standards” column of the use table.

B. Uses Not Allowed

A blank cell in the use table indicates that a use is not allowed in the respective district.

C. Use Categories

Characteristics of the various use categories are located in § 8.2.

D. Standards

The “Standards” column on the use table is a cross-reference to any special regulations in § 8.3 below. All uses are also required to comply with the appropriate dimensional standards in Article 7.

E. Outdoor Storage

For any use that will have outdoor storage accompanying the principal use, the standards of 8.3.6. and 8.3.7 shall apply. Screening requirements for solid waste storage areas and containers, and vehicles in need of minor repair are covered separately and are referenced in the use table.

8.1.8. Use Table

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2	
OPEN USES																
Agriculture	Animal Production and Support Facilities	P	PS	PS												8.3.2.A
	Crop Production	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Crop Production Support Activities	P												P	P	
	Farm Product Sales, Raw Materials	P													P	
	Farm Supply Store without outdoor storage	P											P	P	P	
	Farm Supply Store with outdoor storage	P											PS	PS	P	8.3.5.J
	Sawmill/lumber processing	S														
	Swine Farm	S														
	Warehousing and Storage, farm related products	P													P	
	Livestock Auction	PS													PS	8.3.2.B
Resource Extraction	All Resource Extraction (except borrow pit)	SS													SS	8.3.2.C
	Borrow Pit	P												P	P	
RESIDENTIAL USES (See 8.2.2(b))																
Household Living	Mixed Use Dwelling/Live-Work Unit								P	P	P	P	P			
	Single Family Detached Dwelling, Single-Family Modular Home	P	P	P	P	P	P	P	PS							7.7
	Single Family Attached Dwelling,							PS	PS	PS						7.7 & 7.7.4.1
	Multifamily Dwelling/Apartment							SS	PS	PS	PS	PS	SS			7.8
	Duplex/Triplex							PS	PS							Tables 7.6.2.A & 7.6.2.B
	Accessory Dwelling	PS	PS	PS	PS	PS	PS	PS								8.3.3.C

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2	
Group Living	Congregate Care Senior Housing							PS	PS	PS	PS	PS			8.3.3.D	
	Group Home	SS	SS	SS	SS	SS	SS	SS	SS	SS	PS	PS	PS		8.3.3.E	
	Family Care Home	PS	PS	PS	PS	PS	PS	PS	PS						8.3.3.E	
	Homeless Shelter/Soup Kitchen								SS	SS					8.3.4.I	
	Social Service Institution								SS	SS			PS		8.3.4.F	
PUBLIC AND CIVIC USES																
Community Service	Civic, Social and Fraternal Organization								P	P	P	P	P			
	Library, Public								P	P	P	P	P			
	Museum or Non-Profit Foundation	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P		8.3.4.H	
	Convention Center									S	SS	P	P		8.3.4.G	
Day Care	Child Care Center (not including home day care)	SS	SS	SS	SS	SS	SS	SS	PS	PS	PS	PS	PS		8.3.4.A	
Educational Facilities	All Educational Facilities, except as listed below								P	P	P	P	P			
	School, Boarding							P	S	S	S	S	S			
	School, Business							P	P	P	P	P	P	P		
	School, Trade								P	P	P	P	P			
	School, Elementary and Secondary	P	P	P	P	P	P	P	P	P	P	P	P			
Government Facilities	Animal Shelter	SS											SS	PS	PS	8.3.2.B
	Correctional Institution	S									S					
	Governmental Building (excluding Correctional Institution)	S	S	S	S	S	S	S	P	P	P	P	P	P	P	
	Post Office								P	P	P	P	P	P	P	
	Visitor Bureau								P	P	P	P	P	P		
Medical Facilities	Medical Clinic/Urgent Care								P	P	P	P	P			
Parks and Open Areas	All Parks and Open Areas, except as listed below	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Cemetery	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	8.3.4.C
	Golf Course, Public or Private	P	P	P	P	P	P					P	P			
	Hunting, Fishing, Game Preserve	S														

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards	
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2		
Passenger Terminals	Air transportation and related support facilities	S											P	P	P		
	Bus Charter Service, including passenger terminal													P	P		
	Limousine/Chauffeur Service/Taxi Company/Taxi Stand											SS	SS	PS			8.3.4.D
	Public Transportation System	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Places of Worship	Religious Institution/House of Worship, more than 350 seats	SS	SS	SS	SS	SS	SS	SS	SS	PS	SS	SS	PS	P			8.3.4.E
	Religious Institution/House of Worship, up to 350 seats	SS	SS	SS	SS	SS	SS	SS	SS	P	P	P	P	P			8.3.4.E
Utilities	All utilities, except as listed below	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Electric Generating Facility	S													S	P	
	Natural Gas Distribution Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Pipeline, Petroleum and Natural or Manufactured Gases	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	
	Sewage Treatment Facility, Private as permitted by NCDENR	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	
	Water Treatment Facility	P								P			P	P	P	P	
	Solar Farm	S															
COMMERCIAL USES																	
Indoor Recreation (see 8.3.5.0)	All Indoor Recreation except as listed below											P	P	P			
	Amusement Arcade, indoors only (less than 4 pool tables)											P	P	P			
	Auditorium or Assembly Hall, up to 350 seats									P	P	P	P	P			
	Auditorium or Assembly Hall, more than 350 seats									P	P	S	P	P			
	Bowling Center											P	P	P			
	Firing & Archery Range, Indoors													P	P		

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards	
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2		
	Go-Kart Track												P	PS		8.3.5.P	
	Health Club, Fitness Center, Dance Studio, Martial Arts Studio								P	P	P	P	P	PS		8.3.5.P	
	Motion Picture Theater, Indoor										P	P	P				
	Performing Arts Company								P	P	P	P	P				
	Pool Hall, Billiard Parlor (4-16 Pool Tables)										PS		PS			8.3.5.A & City Code Chapter 6, Article II	
	Sexually Oriented Business												PS	PS	PS	8.3.5.B	
	Skating Rink, Indoor											P		P	S		
Office	All Offices, except as listed below								P	P	P	P	P	P			
	Advertising & Related Services								P	P	P	P	P	P	P		
	Bail Bonding Office											P	P				
	Collections Agency								P	P	P	P	P				
	Credit Bureau									P	P	P	P				
	Data Processing, News Service									P	P	P	P				
	Detective Agency								P	P	P	P	P				
	Electric, Heating, Air Conditioning, Ventilating, Plumbing Sales, Service and Contractor's Office Without Outdoor Storage								P	P	P	P	P	P			
	Engineering, Architect, or Surveyor's Office								P	P	P	P	P	P			
	Financial Institution								P	P	P	P	P				
	Industrial Design Service								P	P	P	P	P	P			
	Insurance Agency								P	P	P	P	P				
	Legal Service								P	P	P	P	P				
Motion Picture and Sound Recording Studio, Photography, Television, Radio and Film Studio								P	P	P	P	P	P				
Scientific Research & Development Service								P	P	P	S	P	P				

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2	
	Stock or Security Brokerage Firm	P							P	P	P	P	P			
	Telemarketing, Call Centers	P							P	P	P	P	P	P		
	Bank Teller Machine outdoor (Principal or Accessory Use)	P						P	P	P	P	P	P	P	P	
Outdoor Recreation	Amusement Park	P											P	P	P	
	Baseball Hitting Range, Golf Driving Range	P										P	P			
	Country Club	P	P	P	P	P	P	P				P	P			
	Equestrian Boarding Riding Arena, Commercial	P	P													
	Miniature Golf Course	P									P	P	P			
	Motion Picture Theater, drive-in	S											S	P		
	Racetrack and Spectator Sports, including racing test track	P												P	P	
	Recreational Instruction and Camps, Indoor or Outdoor	P							P	P	P	P	P	P	P	
Hotel, Motel, Inn	All overnight accommodations except as listed below	P							P	P	P	P	P			
	Bed and Breakfast Inn	PS	PS	SS	SS	SS	SS	SS	PS	PS	PS	PS	PS			8.3.5.C
	Campground	PS														8.3.5.D
Parking, Commercial	Parking lot or deck, principal use	P						PS	PS	PS	PS	P	P	P	P	8.3.5.E
Restaurants (see 8.2.6.F)	All restaurants except as listed below	P							P	P	P	P	P			
	Banquet Home	SS	SS	SS	SS	SS										8.3.5.N
	Private Club	P									SS		SS			8.3.5.F
	Food Truck	P						PS	PS	PS	PS	PS	PS	PS	PS	8.3.5.Q
	Bar, Tavern	P									PS		PS			8.3.5.T
	Restaurant, carryout, delivery, no seating	P								P	P	P	P			
	Restaurant, drive-thru or drive-in	P										P	P			
Alcoholic Beverage	Brewpubs/Brewery-Micro	P									PS	PS	PS	PS	PS	8.3.5.O

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2	
Production (see 8.2.6.J)	Brewery- Large													P	P	
	Winery/Cidery													P	P	8.3.5.O
	Winery/Cidery-Micro										PS	PS	PS	PS	PS	8.3.5.O
	Distillery													P	P	
Retail Sales and Services	All retail sales and service except as listed below									P	P	P	P			
	ABC Store											P	P			
	Animal Clinic/Hospital/Kennel	PS									PS	PS	PS	PS	PS	8.3.4.B
	Animal Grooming Establishment - no overnight boarding									P	P	P	P	P		
	Animal Obedience School	SS											PS	PS	PS	8.3.4.B
	Animal and/or Feed Supply Store	P										PS	PS			8.3.5.J
	Appliance Sales, Rental and Repair										P	P	P	P		
	Auction Sales Establishment												P			
	Blueprinting and Drafting Service								P	P	P	P	P			
	Building Material Supply no outdoor storage											P	P	P		
	Building Material Supply with outdoor storage												PS	P	P	8.3.5.G
	Cemetery Monument Dealer												P	P		
	Check Cashing Establishment												P			
	Cleaning and Maintenance Service									P	P	P	P	P		
	Convenience Store									PS	SS	PS	PS			8.3.5.H
	Delivery/Courier Service, local (no commercial vehicles)									P	P	P	P	P		
	Dry Cleaning Drop Off/Pick Up									P	P	P	P	P		
	Electronics Sales and Repair										P	P	P	P		
	Event Center										PS	PS	PS			8.3.5.R
	Farmer's Market/Produce Stand	P								PS	PS	PS	PS			8.3.5.I
Flea Market	P											PS	PS	PS	8.3.5.I	
Floor Covering Store										P	P	P				

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-I	B-1	CC	C-1	C-2	I-1	I-2	
	Grocery/Food Store									P	P	P	P			
	Fortuneteller, Divination, Palmistry												S			
	Funeral Home								P	P		P	P	P		
	Internet/Electronic Gaming									PS		PS	PS			8.3.5.L
	Laundromat (self service)									P	S	P	P			
	Lawn and Garden Supply, Nursery with Outdoor Storage	P											PS	PS		8.3.5.J
	Lawn and Garden Supply without Outdoor Storage										P	P	P	P		
	Massage Therapist								P	P	P	P	P	P		
	Pawnshop										S	S	P			
	Photofinishing Laboratory												P	P	P	
	Printing and Related Support Activities												P	P	P	
	Shopping Centers, less than 25,000 sq. ft.									P	P	P	P			
	Shopping Centers, greater than 25,000 sq. ft.												P			
	Sign or Banner Shop with outdoor storage													P	P	
	Sign or Banner shop without outdoor storage										P	P	P	P		
	Swimming Pool, Hot Tub Sales and Service												P	P		
	Tattoo Parlor, Body Piercing												PS			8.3.5.K and 8.3.5.M
	Taxidermist												P			
	Tobacco and Hemp												P			
	Weight Loss Centers								P	P	P	P	P			
Self Service Storage	Self-service storage, including mini-warehouses													PS	PS	8.3.6.E
Vehicle Sales and Service	Automobile Towing and Wrecker Service, Vehicle Storage Lot													PS	PS	8.3.6.H

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-I	B-1	CC	C-1	C-2	I-1	I-2	
	Automobile Parts, Tires and Accessories Store									PS		PS	PS	PS		8.3.6.I
	Automobile Repair, Major												PS	PS	PS	8.3.6.H & 8.3.6.I
	Automobile Repair, Minor										PS	PS	PS	PS	PS	8.3.6.D & 8.3.6.I
	Automobile Wash (carwash) including detailing service												P	P	P	
	Manufactured Home Sales												PS	PS		8.3.6.F
	Vehicle Sales, Lease, Rental, including boat, RV and storage buildings												PS	PS	PS	8.3.6.G
	Truck Stop, Travel Plaza													P	P	
INDUSTRIAL USES																
Light Industrial Service	Truck/Construction Equipment Rental													P	P	
	Flex/Office Space												P	P	S	
	All light industrial service, except as listed below													P		
	Cabinet and Woodwork Shop											P	P	P		
	Equipment Supply House, commercial												P	P	P	
	Food Catering Facility									PS	PS	PS	PS	PS		8.3.7.A
	LP Gas & Heating Oil Dealer												P	P	P	
	Machine Shop													P	P	P
	Musical Instrument Manufacturing													P	P	P
	Pest Control Service												P	P	P	
	Portable Toilet Service															P
	Small Engine Repair													P	P	P
	Tire Recap and Repair Facility															P
	Upholstery Shop													P	P	P
Warehouse and Freight Movement	Moving and Storage Facility													P	P	
	Rail Transportation and Support Facilities													P		

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-I	B-1	CC	C-1	C-2	I-1	I-2	
	Product Distribution Center, Warehousing and Storage, (Non-farm related products) less than 75,000 square feet in floor area													PS		8.3.7.F
	Product Distribution Center, Warehousing and Storage, (Non-farm related products) greater than 75,000 square feet in floor area													SS		8.3.7.F
	Truck Terminal and Support Facilities														SS	8.3.7.G
	Hazardous Waste Facility														PS	8.3.7.B
	Sanitary Landfill														PS	8.3.6.B
Waste Related Service	Recycling Processing Facility														P	
	Land Clearing, Inert Debris Landfill	PS												PS	PS	8.3.7.C
	Septic Tank Cleaning Service and Vehicle Storage Facility													P	P	
	Solid Waste Management Facility												P	P	P	
	Junkyard/Salvage Yard														SS	8.3.7.C
	All heavy industrial, except as listed below														P	
	Abrasive Products Manufacturing														P	
Heavy Industrial	Cement, Concrete, Clary, Brick and Stone Product Manufacturing														P	
	Chemical Manufacturing														P	
	Coal, Ore Supply with outdoor storage														S	
	Dry Cleaning/Laundry Plant												P	P	P	
	Food Manufacturing with Animal Slaughtering and Processing														S	
	Tobacco Manufacturing														P	
	Metal Plating														P	

USE CATEGORY	SPECIFIC USE	AG	RESIDENTIAL						COMMERCIAL					IND		Standards
		AG	RE	RL	RM-1	RM-2	RV	RC	O-1	B-1	CC	C-1	C-2	I-1	I-2	

8.2 USE CATEGORIES

COMMENTARY: The following use categories are not zoning districts. These categories group uses for regulatory purposes. The names of some use categories (for example, “Commercial”) may be similar to names for zoning districts (such as “Commercial, General”). A use listed in the examples below is only permitted in accordance with the use table.

8.2.1. IN GENERAL

A. Approach to Categorizing Uses

The use categories found in the use table in § 8.1.8 are set forth in this Section. Specific uses may be further defined in Article 14, Definitions. The Zoning Administrator may determine that uses not listed in Table 8.1.8. are similar to those uses listed in the Table. Where such similar permitted use is subject to special use standards or supplemental standards the proposed use shall also be subject to such standards or approval.

B. Basis for Classifications

Use categories classify land uses and activities based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, likely impact on surrounding properties, and site conditions. The Use Categories provide a systematic basis for assigning land uses to appropriate zoning districts. The Administrator may consult the North American Industry Classification System (NAICS) for further clarification on a particular use.

C. Principal Uses Not Specifically Listed

Determination of the appropriate category for a proposed principal use shall be made by the Zoning Administrator. The criteria below shall be used to determine both the appropriate category for a use not specifically listed in the Use Table or the examples in the Use Category descriptions, and whether a use is considered principal or accessory.

- A. The actual or projected characteristics of the activity in relationship to the stated characteristics of each Use Category.
- B. The relative amount of site area or floor space and equipment devoted to the activity.
- C. Relative amounts of sales from each activity.

- D. The customer type for each activity.
- E. The relative number of employees in each activity.
- F. Hours of operation.
- G. Building and site arrangement
- H. Types of vehicles used and their parking requirements.
- I. The relative number of vehicle trips generated.
- J. Signs.
- K. How the use is advertised.
- L. The likely impact on surrounding properties.
- M. Whether the activity is likely to be found independent of the other activities on the site.

Following a determination that a specific use not listed in these zoning regulations is similar to another listed use, the proposed use shall be subject to any supplemental use standards listed in § 8.3. The Zoning Administrator shall not vary these zoning regulations by adding to or eliminating any use standards in § 8.3 for the proposed use.

Where a use not listed in the use table is found by the Zoning Administrator not to be similar to any other use in the table, the use shall be permitted only following a text amendment of these zoning regulations in accordance with § 3.4, and such a decision shall not be appealed to the Zoning Board of Adjustment .

When considering appropriate districts for a use not listed in the Use Table, the district intent statements in Article 7, Zoning Districts, shall be considered by the Administrator .

D. Developments with Multiple Principal Uses

Developments with multiple principal uses shall conform to the following:

- A. When all principal uses of a development fall within one Use Category, the entire development is assigned to that Use Category.
- B. When the principal uses of a development fall within different Use Categories, each principal use is classified in the applicable Use Category and each use is subject to all applicable regulations for that Use Category.

COMMENTARY: Where a use has a specific use standard applied in the use table (such as a minimum site acreage), the standard applies even when that use is part of a development with multiple principal uses.

- C. A development comprised of uses regulated by separate rows on the Use Table shall be reviewed using the most restrictive process from among the proposed uses.

COMMENTARY: If a proposed development includes a convenience store, fuel sales and a restaurant, including outparcels, and one of those uses is only permitted by special use permit in the district, then

the entire development requires special use permit review and approval.

D. Where a use requiring a special use permit lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use permit review, not the entire project. However, where the separate legal parcel is an outparcel, the Special Use Permit application shall describe the relationship of the outparcel to the remaining site.

COMMENTARY: For example, where a Self Storage Facility in a C-2 District (requiring a Special Use Permit) is an outparcel within a larger retail development, the Special Use Permit shall review the outparcel only - not the entire development. However, where a Special Use Permit is proposed in a building that contains a variety of other uses, the entire building and its associated parcel(s) of land shall require special use permit review.

E. Principal Uses

The “Principal Uses” portion of each use category lists principal uses common to that use category. The names of these sample uses are generic and are based on common meanings, not on what a specific use may call itself. The Administrator’s determination whether a use is permitted in a particular zoning district shall be final, subject to appeal to the Zoning Board of Adjustment.

COMMENTARY: A use that calls itself “Wholesale Warehouse,” but sells mostly to retail consumers, is included in the Retail Sales and Service category rather than the Wholesale Trade category.

F. Accessory Uses

Accessory uses are allowed by right in conjunction with a principal use; however, specific accessory uses with parenthetical cross-references in the following tables are permitted subject to additional standards (see §8.4). Some listed accessory uses may also be considered accessory structures.

G. Uses Not Included

The “Uses Not Included” provides cross-references to uses that may appear to be part of a particular category, but that are explicitly handled in a different use category.

8.2.2 OPEN USE CATEGORIES

A. Agriculture

Characteristics: Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, conservation, and the secondary industries associated with agricultural production.		
Principal Uses	Accessory Uses	Uses Not Included
Animal raising including horses, hogs, cows, sheep, goats, and swine, poultry, rabbits, and other small animals, apiculture, aquaculture, dairying, personal or commercial animal breeding and development Borrow pit Floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture Animal boarding, outdoor Livestock auction Milk processing plant Plant nursery Plant nursery with landscape supply Poultry slaughtering and dressing Retail or wholesale sales of agriculturally-related supplies and equipment Stable Warehousing and Storage, farm related products	Aircraft landing field or helicopter landing facility (private) Ancillary indoor storage Associated offices Auction ring Barns, garages, sheds, silos, stables (noncommercial) Dish antenna under 3 meters Dock or pier (noncommercial) Home occupations Housing for ranch or farm labor, including manufactured homes Railroad right-of-way (existing only) Sale of agricultural products U-pick facilities	Animal waste processing (see Waste-Related Service) Commercial feed lot, livestock slaughtering, processing of food and related products (see Heavy Industrial) Commercial hunting or fishing camp, dude ranch (see Outdoor Recreation) Garden center (see Retail Sales and Service) Riding academy or public stable (see Outdoor Recreation) Recyclable construction material storage, solid or liquid waste transfer or composting, (see Waste-Related Service) Railroad right-of-way, new (see Utilities)

8.2.3. RESOURCE EXTRACTION

Characteristics: Characterized by uses that extract minerals and other solids and liquids from land.		
Principal Uses	Accessory Uses	Uses Not Included
Mining Extraction of minerals Extraction of sand or gravel, borrow pit	Ancillary indoor storage Associated offices Equipment storage Resource processing Stockpiling of sand, gravel, or other aggregate materials	Asphalt plant (see Heavy Industrial) Recyclable construction material storage (see Waste-Related Service) Solid or liquid waste transfer or composting (see Waste-Related Service)

8.2.4. RESIDENTIAL USE CATEGORIES

A. Household Living

Characteristics: Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis in structures with self-contained dwelling units, including kitchens.		
Principal Uses	Accessory Uses	Uses Not Included
<p>Assisted living facility with self-contained individual units that meet the definition of a dwelling unit</p> <p>Guest house</p> <p>Retirement center apartment</p> <p>Short-term rental</p> <p>Single-family detached house, lot line house, traditional house, patio house, villa house, atrium house, two-family house, semi-attached townhouse, townhouse or rowhouse, roof-deck townhouse, stacked townhouse, multiplex, apartment, manufactured home park or subdivision, modular home, upper-story residential</p>	<p>Accessory dwelling unit</p> <p>Accessory structure that does not involve the conduct of business on the premises</p> <p>Ancillary indoor storage</p> <p>Dish antenna under 3 meters</p> <p>Dock or pier (noncommercial)</p> <p>Children’s play area or equipment</p> <p>Greenhouse or nursery, Personal (no sales)</p> <p>Home occupation</p> <p>In-home care for six or less persons</p> <p>Off-street parking of occupants’ registered vehicles</p> <p>Family day care homes</p> <p>Adult day care homes (As licensed by the State of NC)</p> <p>Private community center</p> <p>Public community center affiliated with a public housing agency or department</p> <p>Private garage, barbecue pit, carport, tool or garden shed, storage unit, swimming pool</p> <p>Raising of pets</p> <p>Residential leasing office</p> <p>Storage structure, storage garage or open storage area for RV’s or boats (manufactured home park or subdivision only)</p>	<p>Bed and breakfast establishment, hotel, motel, inn, extended-stay facility (see Transient Accommodations)</p> <p>Family care homes (see Social Service Institution)</p> <p>Nursing or convalescent home (see Group Living)</p> <p>Residential assisted living facility not having individual dwelling units (see Group Living)</p>

B. Group Living

Characteristics: Residential occupancy of a structure by a group of people that does not meet the definition of Household Living. Tenancy is usually arranged on a monthly or longer basis. Generally, Group Living structures have a common eating area for residents, and the residents may receive care or training. All Group Living Uses not listed below as Principal or Accessory Uses are Social Service Institutions.

Principal Uses	Accessory Uses	Uses Not Included
Congregate Care Senior Housing Boarding house, rooming house, fraternity, sorority, orphanage Community residential home Family Care Homes Hospice, nursing or convalescent home Monastery, convent Residential assisted living facility without individual self-contained dwelling units	Ancillary indoor storage Associated office Food preparation and dining facility Off-street parking of vehicles for occupants and staff Recreational facility	Alternative or post-incarceration facility, exclusive care and treatment for psychiatric, alcohol, or drug problems, where patients are residents, Treatment center, transient lodging or shelter for the homeless (see Social Service Institutions) Assisted living facility where individual units meet the definition of a self-contained dwelling unit (see Household Living) Bed and breakfast establishment, hotel, motel, inn, extended-stay facility (see Transient Accommodations) Membership club or lodge (see Indoor Recreation) Residential occupancy of a self-contained dwelling unit by a family on a month-to-month or longer basis (see Household Living) Rehabilitation Centers

8.2.5. PUBLIC AND CIVIC USE CATEGORIES

A. Community Service

Characteristics: Uses of a public, nonprofit, or charitable nature providing ongoing education, training, or counseling to the general public on a regular basis, without a residential component.

Principal Uses	Accessory Uses	Uses Not Included
Community recreational facility (non-profit) Library Museum Neighborhood arts center or similar community facility (public) Philanthropic institution Rural retreat center Senior center Union hall Youth-oriented community service Charitable Club	Ancillary indoor storage Associated office Food preparation and dining facility Arts and crafts, day care, therapy area Indoor or outdoor recreation and athletic facility Limited retail sales (internal) Meeting area Off-street parking	Athletic, tennis, swim or health club (see Retail Sales and Service) Church, mosque, synagogue, temple (see Place of Worship) Counseling in an office setting (see Office) Membership clubs and lodges (see Indoor Recreation) Park (see Parks and Open Areas) Private community center (see Household Living: Accessory Use) Treatment center, transient lodging or shelter for the homeless (see Social Service Institutions)

B. Day Care

Characteristics: Uses providing care, protection, and supervision for more than six 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.

Principal Uses	Accessory Uses	Uses Not Included
Adult day-care program Child care center, nursery school, preschool Intermediate childcare Latch-key program Large Family Day Care Home	Associated office Food preparation and dining facility Health, arts and crafts, and therapy area Indoor or outdoor recreation facility Off-street parking	Counseling in an office setting (see Office) In-home day care for fewer than six persons (see Household Living: Accessory Use) On-site day care facility operated in connection with a business or other principal use where children are cared for while parents or guardians are occupied on the premises (see appropriate category under Accessory Use)

C. Educational Facilities

Characteristics: Public and private (including charter or religious) schools at the primary, elementary, middle, junior high, or high school level that provide basic academic education. Also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree usually in a campus setting.

Principal Uses	Accessory Uses	Uses Not Included
Business, driving, vocational, trade and other commercial schools College, community college or university Day facility Martial Arts School Nursing or medical school not accessory to a hospital Public, private, and charter schools School, boarding School, fine arts Seminary	Adult continuing education program Ancillary indoor storage Associated office Auditorium, theater Before- and after-school day care Cafeteria or other food service Dormitory, housing for students or faculty Health facility Laboratory, library Maintenance facility Meeting area Off-street parking Play area, recreational or sports facility Support commercial (college-operated bookstore, for example)	Dance, martial arts, music, art or photographic studio or classroom (see Retail Sales and Service) Preschool or nursery school (see Day Care)

D. Government Facilities

Characteristics: Offices, storage, maintenance, and other facilities for the operation of local, state, or federal government.		
Principal Uses	Accessory Uses	Uses Not Included
Animal Shelter City, county, state, or federal government office Detention center, jail, prison Emergency services, fire, sheriff, or medical station Post office Work camp Visitor Bureaus	Ancillary indoor storage Associated helicopter landing facility Auditorium, meeting room Cafeteria Day care Fleet management Holding cell, infirmary Limited fueling facility Off-street parking Satellite office	Educational facility (see Educational Facilities) Maintenance facility (see Light Industrial Service) Parks (see Parks and Open Areas) Postal substation (see Retail Sales and Service) Solid or liquid waste transfer or composting (see Waste-Related Service) Utilities (see Utilities)

E. Medical Facilities

Characteristics: Uses providing medical or surgical care to patients. Some uses may offer overnight care.		
Principal Uses	Accessory Uses	Uses Not Included
Blood plasma donation center, medical facility, medical or dental laboratory Hospital, out-patient clinic Medical or dental office or chiropractor Medical Clinic	Associated helicopter landing facility Associated office Cafeteria Chapel, ancillary worship space Day care Group living or hospice Housing for staff or trainees Limited support retail Maintenance facility Meeting area Off-street parking Pharmacy Recreational facility Teaching facility Temporary housing for relatives of patients	Exclusive care and treatment for psychiatric, alcohol, or drug problems, where patients are residents (see Social Service Institutions) Nursing or medical school not accessory to a hospital (see Educational Facilities) Rehabilitative clinic (see Social Service Institutions) Urgent care or emergency medical office (see Retail Sales and Service)

F. Parks and Open Areas

Characteristics: Uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas, or community gardens, and having few structures.		
Principal Uses	Accessory Uses	Uses Not Included
Botanical garden, nature preserve, recreational trail Cemetery, columbarium, mausoleum, memorial park Game preserve, wildlife management area, refuge, wild animal sanctuary, water conservation area Golf Course, public or private Hunting, Fishing and Game Preserves, commercial Park, community Park, district Park, linear Park, neighborhood Park, regional Reservoir, control structure, drainage well, water supply water well	Campground (public park only) Concession Dock or pier (noncommercial) Maintenance facility Off-street parking Play equipment Research or similar lab facilities Single residential unit for caretaker or security purposes Swimming pool, tennis court, ballfield (public park only)	Campground, private, golf course, country club, water park (see Outdoor Recreation) Crematorium (see Light Industrial Service) Golf driving range, miniature golf facility (see Indoor Recreation) Membership club, lodge (see Indoor Recreation) Park maintained by residents (see Community Service) Water tower, tank, standpipe (see Utilities)

G. Passenger Terminal

Characteristics: Public or commercial facilities for the takeoff and landing of airplanes and helicopters, and terminals for taxi, rail or bus service.		
Principal Uses	Accessory Uses	Uses Not Included
Airport, heliport Bus passenger terminal, taxi dispatch center, train passenger terminal Scenic and sight-seeing tour Limousine / Chauffeur Service Public Transportation System Taxi Company / Taxi Stand	Ancillary indoor storage Associated office Concession Freight handling area Fueling facility Limited retail Maintenance facility Off-street parking Park-and-ride facility	Private helicopter landing facility accessory to another use (see Agriculture, Medical Facilities or Government Facilities)

H. Places of Worship

Characteristics: Places of assembly that provide meeting areas for religious practice.		
Principal Uses	Accessory Uses	Uses Not Included
Church, mosque, synagogue, temple	Cemetery, columbarium, day care	Revival or gospel tent

I. Social Service Institutions

Characteristics: Uses that primarily provide treatment of those with psychiatric, alcohol, or drug problems, and transient housing related to social service programs.		
Principal Uses	Accessory Uses	Uses Not Included
Alternative- or post-incarceration facility Exclusive care and treatment for psychiatric, alcohol, or drug problems, where patients are residents Neighborhood resource center Rehabilitative clinic such as for alcohol or drugs Social service facility, soup kitchen, transient lodging or shelter for the homeless	Adult educational facility Ancillary indoor storage Associated office Day care Food services and dining area Meeting room Off-street parking Staff residences located on-site	Assisted living facility with individual self-contained dwelling units (see Household Living) Assisted living facility without individual dwelling units, community residential home (see Group Living) Cemetery, columbarium, mausoleum, memorial park (see Parks and Open Areas) Educational facility (see Educational Facilities) Philanthropic institution (see Community Service)

J. Utilities

Characteristics: Public or private infrastructure serving a limited area with no on-site personnel (Minor Utility) or the general community and possibly having on-site personnel (Major Utility).		
Principal Uses	Accessory Uses	Uses Not Included
Minor Utilities: On-site stormwater, retention or detention facility Neighborhood-serving telephone exchange, gas or electric installation Pipeline Transportation of Petroleum & Natural Gas Water and wastewater pump station or lift station Water Supply System Major Utilities: Aeration facility, artesian well, electrical substation, electric or gas generation plant, filter bed, railroad right-of-way (new), transmission tower, waste treatment plant, water pumping facility, water tower or tank	Control, monitoring, data or transmission equipment Off-street parking Storage	Landfill (see Waste-Related Service) Maintenance yard or building (see Light Industrial Service) Utility office (see Office) TV and radio studio (see Office) Cell phone tower Radio and Television towers Reservoir or water supply (see Parks and Open Areas)

8.2.6. COMMERCIAL USE CATEGORIES

A. Indoor Recreation

Characteristics: Generally commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting.		
Principal Uses	Accessory Uses	Uses Not Included
Adult entertainment Auditorium /Assembly Hall, up to 350 seats Auditorium/Assembly Hall, more than 350 seats Convention center Extreme sports such as paintball, BMX facility or skateboarding facility (indoor) Gymnastic facility, indoor sports academy Go-Kart Track (indoor) Health Club & Fitness Center Amusement Arcade (indoor only) including less than 4 pool tables, bowling alleys, game/amusement arcade Indoor firing range Pool/Billiard Hall or Parlor (4 to 16 tables) Membership club or lodge Movie or other theater Performing Arts Company & Artist Sexually-Oriented Business Skating Rink, indoor	Ancillary indoor storage Associated office Concession Food preparation and dining area Off-street parking Pro shop or sales of goods related to the on-site activities of the specific use	Community recreational facility, non-profit (see Community Service) Dance, martial arts, music, art or photographic studio or classroom (see Retail Sales and Service) Outdoor entertainment (see Outdoor Recreation)

B. Office

Characteristics: Activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services. Accessory uses generally have no external access or signs.

Principal Uses	Accessory Uses	Uses Not Included
Accounting & Tax Service Advertising & Related Services Architectural, Engineering & Related Services Bail Bonding Office Bank Teller Machines, outdoor (principal or accessory use) Counseling in an office setting Collections Agency Computer System Design & Related Services Consulting Office Counseling Office Credit Bureau Data Processing and News Services Detective Agency Electric, Heating, Air Conditioning, Ventilating, Plumbing Sales, Service, and Contractor's Office Employment Agency Engineering, Architect or Surveying Office Environmental Consulting Service Financial Institution Government office Graphic Design Services Industrial Design Services Insurance Agency Interior Design Services Legal Services Motion Picture and Sound Recording Studio Office, general Real Estate Agency Scientific Research & Development Services Stock or Security Brokerage Firm Telemarketing & Telephone Call Centers Television, Radio & Film Studio Travel Agency Utility office	Ancillary storage Cafeteria Health facility Meeting room Off-street parking On-site day care, school or facility where children are cared for while parents or guardians are occupied on the premises Other amenity for the use of on-site employees Small retail operation for on-site workers (no external signage) Technical library	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 (see Light Industrial Service) Bulk mailing service (see Light Industrial Service) Mail-order house (see Wholesale Trade) Medical or dental office (see Medical Facilities) Research, testing, and development laboratory (Light Industrial Service) Urgent care or emergency medical office (see Retail Sales and Service)

C. Outdoor Recreation

Characteristics: Generally commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities. Such activities may take place wholly outdoors or within a number of outdoor structures.		
Principal Uses	Accessory Uses	Uses Not Included
Circus ground Drive-in theater Equestrian Boarding & Riding Arenas, commercial Executive par three golf course Extreme sports such as paintball, BMX facility or skateboarding facility (outdoor) Farmers market or flea market (outdoor) Golf course, country club Outdoor recreation activity such as archery range, baseball hitting range, golf driving range, mini-amusement park, miniature golf facility, outdoor firing range, swimming pool, tennis court water park, riding academy or public stable Recreational vehicle (RV) park, campground, commercial hunting or fishing camp, dude ranch Sports academy for active recreational or competitive sports Stadium or arena, dog or horse track, motor vehicle racing track or facility, commercial amphitheater, ballfield Tourist attraction Winter quarters or training quarters Zoo, public or private	Ancillary indoor storage Associated office Caretaker or security person housing Classroom Clubhouse Concession Day care facility Dock or pier Dormitory Equipment storage Food preparation or dining area Jogging, hiking, fitness and other types of trails. Maintenance facility Off-street parking Pro shop or sales of goods related to the on-site activities of the specific use Rain shelter Restaurant	Athletic, tennis, swim or health club (see Retail Sales and Service) Botanical garden, nature preserve (see Parks and Open Areas) Indoor recreational facility (see Indoor Recreation)

D. Overnight Accommodations

Characteristics: Residential units arranged for short term stays of less than 30 days for rent or lease.		
Principal Uses	Accessory Uses	Uses Not Included
Hotel, motel, inn, extended-stay facility, bed and breakfast establishment Campground	Ancillary indoor storage Associated office Restaurants with or without a bar 5.3.4.M Food preparation and dining facility Laundry facility Meeting facility Off-street parking Restaurant Swimming pool, other recreational facility	Campground, private, hunting/fishing camp, dude ranch, recreational vehicle (RV) park (see Outdoor Recreation) Convention center (see Indoor Recreation) Patient Transient accommodations (see Medical Facilities) Short Term rental (see Household Living) Transient lodging, shelter for the homeless (see Social Service Institutions)

E. Parking, Commercial

Characteristics: Facilities that provide parking not accessory to a principal use, for which a fee may or may not be charged.		
Principal Uses	Accessory Uses	Uses Not Included
Parking Lot & Decks, principal use Mixed parking lot (partially accessory to a specific use, partly to rent for others), short- and long-term fee parking facility Park-and-ride facility	Structure intended to shield parking attendants from the weather	Bus barn (see Warehouse and Freight Movement) Sale or servicing of vehicles (see Vehicle Sales and Service)

E. Restaurants

Characteristics: Establishments that prepare and sell food for on- or off-premise consumption.		
Principal Uses	Accessory Uses	Uses Not Included
Banquet Home Restaurant, fast-food restaurant, pizza delivery facility, drive-in, take-out, yogurt or ice cream shop Private Clubs Small-scale catering establishment Food Truck, Temporary	Ancillary indoor storage Associated office Deck, patio for outdoor seating or dining Drive-through facility Off-street customer and employee parking Brewery/Winery/Cidery - Micro or Brewpub Valet parking facility Bar (as an accessory use to a restaurant and/or private club)	Bar, tavern (see Indoor Recreation) Recyclable construction material storage (see Waste-Related Service)

F. Retail Sales and Services

Characteristics: Companies or individuals invol the sale, lease, or rental of new or used products, or providing personal services or repair services to the general public.

Principal Uses	Accessory Uses	Uses Not Included
<p>Sales-Oriented: Store selling, leasing or renting consumer, home, and business goods including but not limited to alcoholic beverages, antiques, appliances, art, art supplies, baked goods, bicycles, books, building supplies, cameras, carpet and floor coverings, crafts, clothing, computers, convenience goods, dry goods, electronic equipment, fabric, flowers, furniture, garden supplies, gifts or novelties, groceries, guns and ammunition, hardware, home improvement, household products, jewelry, medical supplies, monuments, musical instruments, pets and pet supplies, pharmaceuticals, photo finishing, picture frames, plants, postal substation, printed materials, produce, souvenirs, sporting goods, stationery, telephones, tobacco and related products, vehicle parts and accessories, videos, full- or self-serve gas, Farmers market or flea market (indoor)</p> <p>Personal Service-Oriented: Animal grooming, animal hospital or veterinarian, with or without animal boarding, doggie day care, obedience school Athletic, tennis, swim or health club Dance, art, martial arts, music or photographic studio or classroom Dry-cleaning or laundry drop-off facility, laundromat Funeral home or mortuary Hair, nail, tanning, massage therapy and personal care service Photocopy, blueprint, package shipping and quick-sign service Psychic, fortune teller or medium Security service Taxidermist Urgent care or emergency medical Tattooing or other body art</p> <p>Repair-Oriented: Appliance, bicycle, canvas product, clock, computer, jewelry, musical instrument, office equipment, radio, shoe, television or watch repair Tailor, milliner, upholsterer Locksmith, gunsmith</p>	<p>Ancillary indoor storage Associated office Automatic one bay car wash facility Crematorium (associated with a funeral home) Food preparation and dining area Repackaging of goods for on-site sale Residential unit for security purposes (single unit) Storage of goods</p>	<p>Boarding for horses (see Agriculture, stable) Car wash (see Vehicle Sales and Service) Stand-alone crematorium (see Light Industrial) Large-scale catering (see Light Industrial Service) Laundry or dry-cleaning plant (see Light Industrial Service) Repair or service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (see Vehicle Sales and Service) Restaurant (see Restaurants) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures (see Wholesale Trade) Small-scale catering (see Restaurants) Any use that is potentially dangerous, noxious or offensive to neighboring uses in the district or those who pass on public ways by reason of 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 (see Heavy Industrial)</p>

G. Self-Service Storage

<p>Characteristics: Facilities providing separate storage areas for personal or business use designed to allow private access by the tenant for storing or removing personal property.</p>		
Principal Uses	Accessory Uses	Uses Not Included
<p>Mini-warehouse, multi-story enclosed storage facility, storage garage</p>	<p>Associated office Outside storage of boats and campers Residential unit for security purposes (single unit)</p>	<p>Rental of light or medium trucks (see Vehicle Sales and Service) Storage area used as manufacturing use (see Light Industrial Services) Storage area used for sales, service, and repair operations (see Retail Sales and Service) 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 (see Warehouse and Freight Movement)</p>

H. Vehicle Sales and Service

<p>Characteristics: Direct sales of and service to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats, and recreational vehicles. Uses classified as Vehicle Service, General involve services provided while the customer waits, same day pick-up of the vehicle or customers leaving a vehicle on-site for less than 24 consecutive hours.</p>		
Principal Uses	Accessory Uses	Uses Not Included
<p>Vehicle Service, Intensive: Alignment shop, auto body shop, auto upholstery shop, repair of cars, trucks, RVs and boats, towing service</p> <p>Vehicle Service, General: Quick lubrication facilities, battery sales and installation, auto detailing, minor scratch and dent repair, bedliner installation, provided such repair is within a completely enclosed building (no open service bays, doors, or windows); tire sales and mounting.</p> <p>Full- or self-service car wash Vehicle sales, rental, or leasing facilities (including passenger vehicles, motorcycles, trucks, boats, and other recreational vehicles) Towing and wrecker service Storage Building Display and Sales Manufactured housing sales</p>	<p>Ancillary indoor storage Associated office Sale of parts Single-bay, automatic car wash Towing Vehicle fueling Vehicle storage</p>	<p>Earth moving and heavy construction equipment (see Heavy Industrial) Retail or wholesale sales of agriculturally-related supplies and equipment (see Agriculture) Vehicle parts sale as a principal use (see Retail Sales and Service)</p>

I. Alcoholic Beverage Production

Characteristics: Production and/or distribution of alcoholic beverages such as wine, beer and liquor to include onsite consumption.		
Principal Uses	Accessory Uses	Uses Not Included
Winery/Cidery Winery/Cidery -Micro Distillery Brewery/Brewery-Micro	Restaurant Taproom	Bar Private Club

8.2.7. INDUSTRIAL USE CATEGORIES

A. Light Industrial Service

Characteristics: Firms engaged in the 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. Few customers, especially the general public, come to the site.		
Principal Uses	Accessory Uses	Uses Not Included
Advertising & related services Blueprinting & design services 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 Borrow pit Catering establishment, large-scale Cleaning/maintenance services Clothing or textile manufacturing, manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, electrical items, printing, publishing, and lithography, production of artwork and toys, sign-making Crematorium Engineering, Architect, Surveying office Health club, fitness & dance studio HVAC, electrical, plumbing, contractor's office Industrial design services Janitorial and building maintenance service, exterminator, maintenance yard or facility Laundry, dry-cleaning, and carpet cleaning plants Movie production facility Pest control service Photo-finishing laboratory	Accessory medical clinic Ancillary indoor storage Associated office Cafeteria Day care Dwelling units for short-term use by owners and/or employees, customers or franchisees, provided that units shall not be rented or leased to the public and are located completely within the principal structure. Employee recreational facility Off-street parking On-site repair facility Residential unit for security purposes (single unit) Retail or wholesale sales of goods manufactured on-site	Mining (see Resource Extraction) Manufacture and production of goods from composting organic material (see Waste-Related Service) Outdoor storage yard (see Warehousing and Freight Movement) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures (see Wholesale Trade) Small-scale catering establishments (see Restaurants)

Characteristics: Firms engaged in the 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. Few customers, especially the general public, come to the site.

Principal Uses	Accessory Uses	Uses Not Included
Race cars and parts manufacturing Repair of scientific or professional instruments, electric motors Research, testing, and development laboratory Sheet metal shop, machine shop Small engine repair Soft drink bottling Storage area used for manufacturing Welding machine tool repair shop Woodworking, including cabinet makers and furniture manufacturing		

B. Warehouse and Freight Movement

Characteristics: Firms 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.

Principal Uses	Accessory Uses	Uses Not Included
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 Bus barn Commercial packing for fruits and vegetables Outdoor storage yard Parcel services Truck terminal, supply and distribution center, bulk mailing facility 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	Ancillary indoor storage Associated office Cafeteria Day care Dwelling units for short-term use by owners and/or employees, customers or franchisees, provided that units shall not be rented or leased to the public and are located completely within the principal structure. Employee recreational facility Off-street parking Outdoor storage yard Residential unit for security purposes (single unit) Truck fleet parking and maintenance area	Bulk storage of flammable liquids (see Heavy Industrial) Mini-warehouse, multi-story enclosed storage facility, storage garages (see Self-Service Storage) Solid or liquid waste transfer or composting (see Waste-Related Service)

C. Waste-Related Services

Characteristics: 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.		
Principal Uses	Accessory Uses	Uses Not Included
Animal waste processing Landfill Manufacture and production of goods from composting organic material Recyclable material storage, including construction material Recycling Facility Solid or liquid waste transfer or composting Septic Tank Cleaning Service and Vehicle Storage Facility Solid Waste Management Facility Land Clearing and Inert Debris Landfills Junkyards / Salvage Yards	Ancillary indoor storage Associated office Off-street parking On-site refueling and repair Recycling of material Repackaging and shipment of by-products	Stockpiling of sand, gravel, or other aggregate materials derived from mining (see Resource Extraction)

D. Heavy Industrial

Characteristics: Firms involved in research and development activities without light fabrication and assembly operations; limited industrial/manufacturing activities. The uses emphasize industrial businesses, and sale of heavier equipment. Factory production and industrial yards are located here. Sales to the general public are limited		
Principal Uses	Accessory Uses	Uses Not Included
Any use that is potentially dangerous, noxious or offensive to neighboring uses in the district or those who pass on public ways by reason of 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 Animal processing, packing, treating, and storage, livestock or poultry slaughtering, citrus concentrate plant, processing of food and related products, production of 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, sawmill Borrow pit Bulk storage of flammable liquids Commercial feed lot Concrete batching and asphalt processing and manufacture Earth moving and heavy construction equipment Landfill, hazardous solid waste Mining (see Resource Extraction) Primary Metal Processing & Manufacturing Tobacco Manufacturing Truck, Heavy Duty; RV & Self-propelled Heavy Construction Equipment, sales, service and rental	Ancillary office Associated office Cafeteria Off-street parking Product repair Repackaging of goods Warehouse, storage Residential unit for security purposes (single unit) Day Care facility if part of a service offered by an employer	Animal waste processing (see Waste-Related Service) Repair and service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (see Vehicle Sales and Service) Store selling, leasing, or renting consumer, home, and business goods (see Retail Sales and Service)

E. Wholesale Trade

Characteristics: Firms involved in the sale, lease, or rent of products to industrial, institutional or commercial businesses only. The uses emphasize on-site sales or order-taking and often include 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.

Principal Uses	Accessory Uses	Uses Not Included
Mail-order house Sale or rental of machinery, equipment, heavy equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures Water softening, commercial Wholesale of food, clothing, auto parts, and building hardware Metal & Pipe Supply, with no outdoor storage Metal & Pipe Supply, with outdoor storage	Accessory medical clinic Ancillary indoor storage Associated office Cafeteria Day care Minor fabrication services Off-street parking Product repair Repackaging of goods Residential unit for security purposes (single unit) Showroom Warehouse	Store selling, leasing, or renting consumer, home or business goods, wholesale club (see Retail Sales and Service) Warehouse, freight movement (see Warehouse and Freight Movement) Warehouse or wholesale club (see Retail Sales and Service)

8.3 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES

8.3.1. GENERAL PROVISIONS

A. Applicability

The provisions of this Article are supplemental to the general provisions of the other Articles of the Concord Development Ordinance. All Uses and Structures shall comply with the all other applicable provisions of this Ordinance in addition to the provisions of this Article.

B. Relationship to Use Table

The zoning district in which a particular use is permitted is controlled by Use Table, and in the event of any inconsistency between the provisions of this Section and the Use Table, the provisions of the Use Table shall control.

C. Distance Measurements

All horizontal distance measurements referred to in this Article shall be measured from closest parcel line to closet parcel line, unless otherwise noted.

8.3.2. OPEN USES

A. Animal Production and Support Facilities

1. PURPOSE AND SCOPE

The purpose of this Section is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public. The provisions of this section shall not apply to dogs, cats, or other similar household pets.

2. USE REGULATIONS

The use of land for the keeping of agricultural animals of other livestock shall be permitted as set forth in the use table, subject to the criteria below.

3. AGRICULTURAL ANIMALS

A. No livestock shall be kept, maintained or stabled within any Residential Zoning District on any lot not exceeding two (2) acres.

B. On parcels of two (2) acres or more and as set forth in the use table, certain livestock shall be permitted subject to the following provisions:

C. All buildings or structures (excluding fences) used to house livestock shall be located so that they are no closer than one-hundred fifty feet (150') from a dwelling unit. The provisions of

this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.

- D. Not more than one (1) Animal Unit shall be kept, maintained or stabled per six thousand (6,000) square feet of land.
- E. No equine stable operated as a principal use shall be within three hundred (300) feet of an existing single-family detached dwelling on a different lot.

B. Livestock Auctions

1. LAND AREA AND SETBACKS

The minimum acreage for a livestock auction facility is 20 acres. A minimum setback of no closer than three hundred feet (300') from a dwelling unit or residential zoned or used property is required.

C. Resource Extraction

1. PURPOSE

To establish consistent guidelines covering review of applications for mining and quarrying operations where an approved site plan is considered necessary to protect any adjacent residential property from smoke, dust, and noise, and to minimize the effect of scarification of the landscape.

2. APPLICABILITY

The provisions of this Section apply to any mining or extractive uses. The use of land for quarrying and/or mining shall be permitted as set forth in the Use Table subject to the criteria below.

3. COMPLIANCE WITH STATE REGULATIONS

All proposed mining and quarrying activities must conform to the "North Carolina Mining Act of 1971" as amended, (NCGS § 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Environment and Natural Resources Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

4. REVIEW AND APPROVAL

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a special use permit application, a reclamation plan, and a Preliminary Site Plan detailing the

minimum general standards as set forth in the City's Technical Standards Manual .

5. SETBACKS

Minimum setbacks in § 7.6 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.

6. BARRIER REQUIRED

A. A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence, landscaping, existing topographical features or any combination of the above. Existing vegetation may also be considered in accordance with Article 11. The barrier shall be constructed so as to block the view of the extraction operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. For the purposes of this section, the view shall be defined as a perpendicular linear view from the edge of the property line toward the interior of the mine or quarry site. The Planning & Zoning Commission, through the issuance of a Special Use Permit, shall have the authority to grant exceptions where a barrier as required by this section is not practical or feasible. Landscaping shall be in accordance with Article 11.

B. The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

7. EXEMPTIONS

A. Earth moving activity disturbing less than one acre of land shall be exempt from the provisions of this Section.

B. Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed.

C. Borrow pits are exempt from the provisions of this Section.

8.3.3 Residential Uses

A. Single-Family Attached Dwelling

[See § 7.7]

B. Multifamily Dwelling

[See § 7.8]

C. Accessory Dwelling

1. ZONING DISTRICTS

Accessory Dwellings and Accessory Apartments are conditionally permitted in those zoning districts where such use is permitted in

accordance with the Use Table.

1. HOUSING STANDARDS

Accessory Dwellings must comply with all applicable local, State and Federal housing codes.

3. NUMBER

Only one (1) Accessory Dwelling or Accessory Apartment shall be permitted per lot.

4. SIZE OF UNIT

The Accessory Dwelling or Accessory Apartment shall not exceed fifty (50) percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.

5. PLACEMENT OF THE ACCESSORY DWELLING ON THE LOT

An Accessory Dwelling shall be sited to the rear of the principal building. In the AG or RE zoning districts, the Accessory Dwelling unit may be sited to the side of the principal building only if the lot exceeds ten (10) acres in size.

6. SETBACKS

The Accessory Dwelling shall meet all setback requirements as established for principal uses within the zoning district within which it is located.

7. COMPATIBILITY

The exterior of the Accessory Dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance. Manufactured homes shall not be pulled up to or attached to a primary residence and considered an Accessory Apartment or Accessory Dwelling Unit. Manufactured homes, as principal or accessory dwelling units, shall be permitted only in the MH Manufactured Home Overlay District.

8. PARKING

Adequate off-street parking shall be provided for any vehicles owned by occupants of the Accessory Dwelling or Accessory Apartment.

9. UTILITIES

Where there is no public sanitary sewer service to the Accessory Dwelling unit, County Health Department shall approve sanitary sewer services provided to such Accessory Dwelling unit prior to its construction.

10. OWNER-OCCUPIED RESTRICTION

Accessory dwelling units shall only be allowed on parcels that contain owner-occupied single-family dwelling units that are allowed as a principal permitted use.

D. Group Living

1. APPLICABILITY

The provisions of this Section apply to any Congregate Care Senior Housing or Residential Care Facility. The Provisions of this section shall not apply to a Family Care Home as defined in this Ordinance.

The use of land for a residential care facility shall be permitted as set forth in the Use Table subject to the criteria below.

2. STATE LICENSING

A. Prior to submission of an application for a certificate of zoning compliance, an owner/operator of a group living facility shall have received a license from the State of North Carolina for the operation of such a facility.

3. LOCATION

No group living facility shall be located within one thousand (1,000) feet from any Hazardous Waste Facility.

4. SECURITY FENCING

Group living facilities that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five (5) feet, along the perimeter of any portion of the site that is accessible to these patients.

E. Family Care Home

1. CITY REGISTRATION

No family care home shall operate until it has registered its location with the City of Concord Development Services Department. Family care homes must obtain and maintain any and all applicable federal, state, local or other licenses required for such facilities before registering. The registration shall include the address of the residence, the name, address and telephone number of the "operator representative," and the number of occupants permitted to dwell there. The registration shall also include an affirmation that the residence is not located in violation of applicable distance separation requirements for such facilities. Any changes in licensure status or designated "operator representative" must be reported to the Development Services Department immediately. For purposes of this section, "operator representative" shall mean an individual who represents the operator or residents of a supportive housing residence or family care home who is responsible for addressing problems with the operation of such a facility, if any, whenever they arise. The "operator representative" may live on-site at the facility or off-site, but must be available to the public.

2. LOCATION

- A. No family care home shall be located within 2,100 feet of any other existing family care home established prior to, or after, the effective date of this ordinance. The distance shall be determined by a straight-line measurement from property line to property line.
- B. No family care home shall be located within 1,000 feet of any hazardous waste facility (as determined by a straight-line measurement from property line to property line).

3. SECURITY FENCING

Family care or group homes that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five feet, along the perimeter of any portion of the site that is accessible to these patients.

F. Temporary Health Care Structures

Temporary family health care structures as defined by state law shall be permitted on lots zoned for and developed with single-family detached dwellings, subject to issuance of a temporary use permit and compliance with the following provisions:

- 1. Any temporary family healthcare structure shall be limited to one mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living, as certified in writing by a licensed physician.
- 2. The property on which the temporary family health care structure will be located shall be owned or occupied by an adult caregiver who provides care for a mentally or physically impaired person and the property shall be used as the caregiver's primary residence. The adult caregiver shall be related by blood, marriage, or adoption to or the legally appointed guardian of the physically or mentally impaired person(s) occupying the temporary family health care structure.
- 3. Only one (1) temporary family health care structure shall be permitted on a lot or parcel of land.
- 4. Temporary family health care structures shall be limited to a maximum of three hundred (300) square feet of gross floor area and shall meet the minimum setback requirements for single family detached dwellings of the zoning district in which they located. Temporary health care structures shall be located behind the front building line.
- 5. Temporary family health care structures shall not be installed on a permanent foundation.

6. Temporary family health care structures shall be subject to applicable building codes.
7. Temporary family health care structures shall be required to connect to any water, sewer, and electric utilities that are serving the principal residence on the property.
8. No signs promoting or advertising the existence of the structure shall be permitted on the structure or on the lot.
9. The applicant shall provide evidence of compliance with all requirements of state law and this section on an annual basis as long as the temporary family healthcare structure remains on the property.
10. The City may arrange the inspection of the temporary family healthcare structure at reasonable times convenient to the caregiver, not limited to the annual compliance confirmation.
11. The following shall be submitted to the City with any application for a temporary family health care structure:
 - a. The name and contact information of the proposed caregiver, and the relationship of the caregiver to the physically or mentally impaired proposed occupant.
 - b. Address of the property.
 - c. Written certification of physical or mental impairment of the proposed occupant, including verification that the person requires assistance with one or more activities of daily living by a licensed physician.
 - d. Three copies of a plat drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), which may be prepared by the applicant, and shall contain the following information:
 - (1) The dimensions of the lot, the boundary lines thereof, and the area of land contained therein.
 - (2) The dimensions, height and distance to all lot lines of any existing structure on the lot and of the proposed temporary family health care structure.
 - (3) Temporary family health care structures shall be removed from the property within sixty (60) days from the date on which the structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for in this Section or State Law.
 - (4) A permit for a temporary health care structure may be revoked by the City due to failure of the applicant to comply with any of the above provisions or the provisions of State Law. Additionally, the City may seek injunctive relief or other appropriate actions to ensure compliance with this Section or State Law.

8.3.4 PUBLIC AND CIVIC USES

A. Child Care Center

1. APPLICABILITY

The provisions of this Section apply to any:

- A. Child Care Center.
- B. Family Day Care Homes. Day care homes are also Home Occupations (see Accessory Uses)

2. PERMIT APPLICATION

The following shall be submitted with the application for a Zoning Clearance Permit or Certificate of Compliance:

- A. Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).
- B. Such centers shall be enclosed with a fence, with a minimum height of four (4) feet.
- C. The following shall be submitted upon receipt from the N.C. State Licensing Board:
- D. A copy of the N.C. State letter of approval for religious childcare facilities, or
- E. A copy of the N.C. State temporary license (issued for the first six months of operation) and permanent license issued to all childcare facilities, excluding religious childcare facilities.
- F. A letter from the applicant indicating the number of residents that will be cared for and how many staff will be employed.

3. ACCESS AND LOADING/UNLOADING

- A. This provision of this § 8.3.4 shall not apply to Family Day Care Homes.
- B. Adequate access to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children. Standards for access and off-street parking/loading are set forth in Section 10.3.
- C. The use shall front a street classified as a collector or a thoroughfare.

B. Animal Shelter, Boarding, Clinic/Hospital Uses

1. APPLICABILITY

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels. Animal boarding/storage uses shall be permitted as set forth in the Use Table subject to the criteria below.

2. CRITERIA

- A. Facilities for the boarding of all dogs and other household pets shall conform to the following:
- B. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.

- C. Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters.
- D. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.
- E. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height.

C. Cemetery

1. APPLICABILITY

The provisions of this Section apply to any Cemeteries or crematories as allowed by Table 8.1.8 and subject to the provisions below.

2. CRITERIA

- A. Pursuant to NCGS § 90-210.43, any crematories may be established in commercial or industrial zoned district so long as it is adjacent to a funeral establishment.
- B. Minimum setback for all structures, excluding gatehouses, abutting residentially zoned property is (50) feet from any side or rear property line, (25) twenty-five feet if abutting commercially zoned property, and a minimum of (25) twenty-five feet from any right-of-way. Gatehouses shall be excluded from any minimum building setback.
- C. Minimum setback for any grave or burial plot is fifty (50) feet from any exterior property line, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery.
- D. Buffering and Landscaping shall be regulated in accordance with Article 11.

D. Limousine/Chauffeur Service/Taxi Company

1. VEHICLE STORAGE

- A. Automobiles stored on such premises shall be at least fifty (50) feet from any residential district boundary and at least ten (10) feet from any property line. No automobile shall be stored or stand outside of such paved area.
- B. When located within one hundred and fifty (150) feet of a residential zone boundary line, such vehicles shall be stored within an enclosed building or in an area screened on all sides by a opaque wall or fence, or compact evergreens screen not less than six (6) feet in height.
- C. No service or repair of such vehicles shall be conducted on the premises.
- D. The entrance and exits, driveway aisles, parking and storage spaces shall be increased in size to accommodate the size of the

vehicle for which the storage is intended.

E. Religious Institution/Place of Worship

1. MULTI PURPOSE CAMPUS:

A. Religious institutions/places of worship are permitted as shown in the Use Table, provided that additional uses and buildings beyond the sanctuary or other actual place of worship that house other regulated facilities such as schools, gymnasiums, community centers, transient shelters and other associated uses shall be considered multiple principal uses of the property - not accessory to the religious institution or place of worship.

2. RELIGIOUS INSTITUTIONS SHALL:

A. Be located on a parcel or site that fronts an arterial or collector street (for churches over 350 seats);

B. Design any accessory child day care center or overnight child care center associated with the religious institution to comply with the standards of Section 8.3.4 A. Child Day Care Center; Pre-School;

C. The Development Services Director shall have the authority to grant modifications to any of the standards listed in this section in order to eliminate a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000 (42 U.S.C. Sec. 2000), as amended. In granting such a modification, the Development Services Director may require conditions consistent with the federal act that will secure substantially the objectives of the modified standard and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties.

F. Social Service Institution

1. DESCRIPTION

Social Services may include but not be limited to Assisted Living Facility; Nursing Home; Psychiatric Treatment Facility

2. SUPPORTING USES

Any supporting retail sales and services uses accessory to the principal use shall be enclosed within the principal structure, shall not exceed twenty percent (20%) of the heated floor area of the principal structure, and shall only be accessed through the principal structure.

G. Convention Center

1. PURPOSE

The purpose and intent of this section is to ensure that future development within close proximity of the convention center will

contain uses that are compatible and complimentary, and promote pedestrian as well as tourist activities.

2. MINIMUM LOT AREA

Be no less than five (5) acres in area;

3. DISTANCE FROM RESIDENTIAL DISTRICT

The building shall be located a minimum of five hundred (500) feet from any residential district, as measured from all property lines; and

4. VEHICULAR ACCESS

Locate all points of vehicular access from an arterial or major collector street. The access points shall be located to minimize vehicular traffic to and through local streets in residential areas.

5. LOCATION

Only the following permitted uses from Table 8.1.8 shall be allowed to locate within one thousand (1000) feet from any convention center property unless the use is separated by an existing public right-of-way of 120 ft. or greater. This does not include property whose use(s) would become non-conforming at the date of adoption. For purposes of this section, a property for which a site plan has been approved shall be considered to be a convention center property.

- ABC Store
- Accessory uses (customarily incidental to the permitted primary use as approved by the Administrator)
- Accounting & Tax Service
- Advertising & Related Services
- Amusement Arcade, indoors only
- Amusement Park
- Animal Grooming Establishment (no overnight boarding)
- Antique Store
- Architectural, Engineering & Related Services
- Art Dealer
- Art Supply Shop
- Auditorium/Assembly Hall, up to 350 seats
- Auditorium/Assembly Hall, more than 350 seats
- Bakery/Snack Shop, no drive-thru
- Bank Teller Machines, outdoor (principal or accessory uses)
- Barber/ Beauty Shop
- Baseball Hitting Range
- Beauty Supply and Cosmetic Store
- Bed and Breakfast Inn
- Bicycle Sales and Service
- Blueprinting and Drafting Service
- Botanical Gardens/Nature Preserves
- Book Store

- Bowling Center
- Bus Charter Service Company (including passenger terminals)
- Camera and Photography Store
- Candle Shop
- Candy and Nut Store
- Card Shop
- Child Care Center
- China and Tableware Shop
- Clock and Watch Sales and Repair
- Cloth/Piece Goods store
- Clothing and Clothing Accessories
- Clothing Alterations and Repairs
- Coin and Stamp Shop
- Computer System Design & Related Services
- Convention Center
- Costume Rental Shop
- Counseling Office
- Consulting Office
- Country Club
- Craft Studio and Store
- Credit Bureau
- Dance School Studio
- Data Processing and News Services
- Delivery/Courier Service, local, (no commercial vehicles)
- Detective Agency
- Drapery and Linen Shop
- Electronics Sales and Repair
- Electronic Shopping and Mail-Order Houses
- Employment Agency
- Engineering, Architect or Surveying Office
- Environmental Consulting Service
- Extended Stay Lodging Facilities
- Financial Institution (no drive up windows)
- Floral and Christmas Shop
- Florist
- Food Catering Facility
- Food Store, (excluding convenience stores)
- Formal Wear
- Funeral Home
- Furniture & Home Furnishings store
- General Merchandise Store (less than 25,000 sq. ft.)
- Gift, Novelty and Souvenir Store
- Glass and Mirror Shop
- Golf Course, public or private

- Golf Driving Range
- Governmental Buildings (excl. correctional institutions)
- Graphic Design Services
- Gun and Ammunition Sales
- Gunsmith
- Hardware Store
- Health Club & Fitness Center
- Hobby, Toy, and Games Stores
- Home Electronics Sales and Repair
- Home Occupations
- Hospital
- Hotel
- Industrial Design Services (general office)
- Insurance Agency
- Interior Design Services
- Jewelry Sales and Repair Store
- Legal services
- Library, public
- Limousine/Chauffeur Service
- Martial Arts School
- Massage Therapist
- Medical clinic
- Medical Supply Shop
- Micro-Brewery (less than 5,000 sq. ft.)
- Miniature Golf Course
- Mixed Use Building
- Motel
- Multifamily Dwelling
- Motion Picture and Sound Recording Studio
- Motion Picture Theater, indoor
- Museum
- Music Store
- Nail Store
- Newsstand (principal use)
- Nursery, plants
- Office, general
- Office supplies, Equipment and Stationary Store
- Park, community
- Park, district
- Park, neighborhood
- Park, linear
- Park, regional
- Parking Lot & Decks, principal use
- Performing Arts Company & Artist
- Pet Shop

- Photocopy Service
- Photofinishing Laboratory
- Photography Studio
- Picture Frame Shop
- Post Office
- Postal store and Contract Station
- Printing and related Support Activities
- Public Transportation System
- Real Estate agency
- Recreational Instruction and Camps
- Religious Institution / House of Worship (up to 450 seats)
- Religious Institution / House of Worship (more than 450 seats)
- Restaurant
- School, boarding
- School, business or trade
- School, private & parochial
- School, public, elementary & secondary
- School, university or college
- School, fine arts
- Scientific Research & Development Services
- Sewing, Needlework & Piece Goods Store
- Shoe Sales and Repair Shop
- Shopping Center, less than 25,000 sq. ft.
- Shopping Center, 25-100,000 sq. ft.
- Shopping Center, over 100,000 sq. ft.
- Skating Rink, indoor
- Social Assistance (excl. child care centers)
- Sporting Goods Store
- Stationery Shop
- Stock or Security Brokerage Firm
- Tanning Salon
- Television, Radio & Film Studio
- Tobacco Shop
- Travel Agency
- Trophy & Plaque Shop
- Video Rental & Sales
- Visitor Bureaus
- Wedding Chapel

H. Museums and Non-Profit Foundation Offices

1. MUSEUM IN RESIDENTIAL DISTRICTS

For a museum to be located in any residential district, the structure must have a direct link with an individual who inhabited the structure or event that transpired in the structure.

2. NON-PROFIT FOUNDATION IN A RESIDENTIAL DISTRICT

For non-profit foundation office to be located in any residential district, there must be a documented historic link between the structure and the non profit foundation wishing to set up the non-profit foundation office.

3. DESIGN

The structure must remain residential in character and may not be altered in a way that detracts from the surrounding neighborhood and must meet all CDO and any overlay district requirements.

I. Homeless Shelter/Soup Kitchen

Homeless shelters/soup kitchens shall have a minimum lot area of one (1) acre. New homeless shelters/soup kitchens shall be separated from existing homeless shelters/soup kitchens by at least 800 feet measured from property line to property line.

8.3.5. COMMERCIAL USES

A. POOL HALL, BILLIARD PARLOR

Pool or billiard parlors having a minimum of four but not more than sixteen pool or billiard tables, shall have, under the same roof and developed integrally with the pool or billiard parlor, an eating establishment with full restaurant kitchen and dining facilities, including a minimum of 36 seats for dining tables and/or booths.

1. Obscuring View of Interior

It shall be unlawful for any person to place or keep any kind of stain, paint, curtains, or other things on or in front of any glass which obscures the view into any place or building where a pool or billiard hall or parlor is maintained.

B. SEXUALLY ORIENTED BUSINESSES

1. PURPOSE & FINDINGS

A. The City Council of the City of Concord finds that this Ordinance is necessary in order to protect the City from the potential secondary effects of sexually oriented businesses including crime, the protection of the City's retail trade, the prevention of the blighting of neighborhoods and the maintenance of property values, protecting and preserving the quality of the City's neighborhoods and the City's commercial districts, the protection of the City's quality of life, the increased threat of the spread of sexually transmitted diseases, and the protection of the peace, welfare and privacy of persons who patronize sexually oriented businesses. Experience in this City as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and

Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The City recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977; (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986); (9) Austin, Texas' study on effects of adult businesses; (10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).

- B. The City Council believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified.
1. Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;
 2. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;
 3. Sexually oriented businesses should be located in specific areas of the City which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This is necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide

- certainty to the residents of the City and sexually oriented business operators with respect to potential adult use sites.
4. The image of the City as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions and parks;
 5. The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;
 6. A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property values and protects its residents from the adverse secondary effects of sexually oriented businesses while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the City; and
 7. There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.
- C. The City Council recognizes and relies on the findings set forth in the 1986 N.C. Attorney General's Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.
- D. The City Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:
1. Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as "performers") have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of

- the sexually oriented business;
2. Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;
 3. Evidence indicates that performers at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment;
 4. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.
- E. The City Council has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:
1. Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;
 2. The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and
 3. Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.
- F. It is not the intent of the City Council in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the City.
- G. The City Council desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the City and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated with the development and operation of sexually oriented businesses.
- H. The City Council and Planning and Zoning Commission have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.
- I. These regulations are authorized by NCGS § 160A-181.1.

2. APPLICABILITY

The provisions of this Section apply to any Sexually-Oriented Business/Adult Establishments. The use of land for a sexually-

oriented business or adult establishment shall be permitted as subject to the criteria below.

3. LOCATION STANDARDS

- A. No sexually-oriented business shall be located within two thousand (2,000) feet of any other sexually-oriented business.
- B. No sexually-oriented business shall be located within two thousand (2,000) feet of a school, day care or adult day care center, public or private recreation center, a church or a park used by the public for recreational purposes.
- C. No sexually-oriented business shall be located within two thousand (2,000) feet of any Residential Zoning District or residentially developed property. The distance shall be measured radially from the subject property to the nearest point of the Residential District or property, whether such district or use is located within the City of Concord or not.

4. SIGNS AND DISPLAYS

Signage shall be regulated in accordance with Article 12, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

C. BED AND BREAKFAST INN

1. LOCATION

Bed and breakfast inns shall only be established in accordance with the Use Table, subject to the following location limitations:

- A. A Historic Preservation Overlay District or;
- B. On a parcel with frontage on a major or minor thoroughfare; or
- C. Within a PUD Planned Unit Development.

2. STRUCTURE

A structure which shall be used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance.

3. APPROVAL CRITERIA

- A. Off-Street Parking. See § 10.3.
- B. Receptions/Private Parties. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Special Use Permit or Site Plan application.
- C. Room Rental. No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.
- D. Guest Rooms. All guest rooms shall be located within the principal structure.
- E. Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Special Use Permit. No cooking facilities shall be permitted in the guest

rooms.

- F. Accessory Uses. Accessory uses associated with a bed and breakfast inn include those as set forth in § 8.3.
- G. Area Regulations. Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.
- H. Maximum Number of Guest Units. The maximum number of guest bedrooms for each proposed bed and breakfast inn shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging
- I. Landscaping and Buffering. See Article 11.
- J. Lighting. All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.
- K. Signage. Signs for bed and breakfast inns shall meet the requirements of the Sign Regulations and the requirements set forth below.
 - 1. Signage shall be limited to one ground sign per establishment.
 - 2. Ground signs identifying bed and breakfast inns shall not exceed five square feet in area nor five feet in height. Such signs shall not be illuminated.
 - 3. No additional advertising signs shall be permitted on the property.

D. CAMPGROUNDS

1. CRITERIA

This section applies to Campgrounds as permitted by the Use Table and subject to the following standards:

- A. Campgrounds shall not be used as permanent residences except for one (1) owner or manager and up to three (3) permanent maintenance personnel.
- B. Towed vehicles within the Campground shall not exceed eight feet (8') in width.
- C. No person, other than the owner or operator shall stay in any Campground more than ninety (90) days per calendar year.
- D. Camp sites shall be a minimum of one thousand two hundred fifty (1,250) square feet and at least twenty five feet (25') in width.
- E. Camp sites shall be spaced so that there is at least: ten feet (10') between sites; eight (8') feet from the interior roadways;

fifty feet (50') from exterior roadways; and fifteen (15') feet from property lines.

- F. Parking spaces and interior roadways shall be paved or treated to reduce dust.
- G. Sewage facilities, if provided, shall be connected to a public sewer collection and treatment system, unless alternative systems are permitted by state law.
- H. All utilities shall be located underground.
- I. At least one public telephone shall be provided.
- J. Walkways to concentrated activity areas (such as bathhouse, restrooms, etc.) within the campground area shall be at least four feet (4') wide with an all weather surface.
- K. All unpaved areas within the campground must have vegetative ground cover, which is adequate to prevent erosion and blowing dust.
- L. One tree of a species identified in the Suggested Plant List shall be provided for each two camping spaces. Such trees shall be located in front of those spaces. The Applicant shall comply with the requirements of the Landscaping Standards.
- M. All trash collection areas shall be completely screened from view at any public right-of-way or property line.
- N. Adjoining residential zoned or developed areas shall be screened by a minimum Class "C" buffer yard as described in Article 11.
- O. Each campground shall provide at least one full time attendant.

E. PARKING DECK

[See Article 7.8, 7.9, 7.10 and 7.11]

F. PRIVATE CLUBS

1. The provisions of this section shall apply to any private club to the extent not preempted by NCGS § 18B-901. Private clubs located completely within motels and hotels shall be exempt from the provisions of these regulations, provided that they encompass no more than 25 percent of the gross floor area of the motel or hotel.
2. No private club shall be established within 1,000 feet of any of the following:
 - A. Any Residential Zoning District, any Elementary School, Middle School, or High School;
 - B. Any Child Care Center or Child Care Facility;
 - C. Any Religious Institution; or
 - D. Any other existing establishment of the same kind.The distance provisions above shall not apply in the Center City Zoning District.
3. An application for development approval for a private club shall include a floor plan of the building or structure in which the private

club is located. The floor plan shall delineate separately the areas of the building or structure, which are used for the dispensing of food and beverages, entertainment, and dancing.

G. BUILDING MATERIAL SUPPLY

General Provisions

In the AG, B-1, , C-1, C-2, I-1 and I-2 districts, outdoor storage areas shall comply with the following.

1. Outdoor storage areas are prohibited within 50 feet of any public street right-of-way and within 100 feet of residential uses and/or residential zoning districts. This provision shall not apply to nursery stock in non-residential zoning districts.
2. Outdoor storage areas shall be screened by a Type C buffer yard in accordance with the Article 11. This provision shall not apply to Junk Yards/ Salvage Yards. (see § 8.3.6.B.).
3. Except for integral units (see Article 14, Definitions), openly stored items shall not project above the screening. Notwithstanding this requirement, no item may exceed the building height restrictions in Table 7.6.2.A for the zoning district within which the item is located.
4. No open storage area shall be maintained in the required front yard area, except that allowed by§ 8.3.6-D
5. Fences of chain link, sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, are not sufficient materials to screen outdoor storage areas or operations.
6. The provisions of this § 8.3.5 shall not apply to open storage associated with agricultural uses as permitted in Table 8.1.8.

H. CONVENIENCE STORE (WITH OR WITHOUT GASOLINE SALES)

1. APPLICABILITY

The provisions of this Section shall apply to Convenience Stores and Gas Stations as allowed in the Use Table and subject to the provisions below.

2. ACCESSORY USES

The following uses shall be considered accessory to Convenience Stores or Gas Stations:

- A. Car washes.
- B. Gasoline pumps and canopies.
- C. Automatic teller machines (ATM's).
- D. Restaurants located within the Primary Building.
- E. Sales of prepackaged beverages, snack foods, tobacco products, and other retail merchandise, and rental of video tapes and video cassette recorders.

3. APPROVAL CRITERIA

A. LOCATION.

1. Principal Structure - The site shall have frontage on a thoroughfare or collector road.
2. Service Equipment - No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be closer than 25 feet to any public right-of-way and 10 feet to any exterior property line. Pump island canopies shall not be located closer than 10 feet to a public right-of-way or an exterior property line.

B. MAXIMUM SQUARE FOOTAGE FOR PRINCIPAL STRUCTURE.

1. In C-2 District: No maximum.
2. In all other districts that allow convenience stores: 2,000 leasable square feet for enclosed structure.

C. LIGHTING.

1. All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the convenience store is located, and may be of sufficient intensity to discourage vandalism and theft.
2. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

D. SIGNS. See Article 12 Signs.

I. FARMERS MARKET AND FLEA MARKET (OUTDOOR)

1. ACCESS

Direct access to the site shall be provided by major or minor thoroughfares only, as depicted on the most up-to-date version of the City of Concord thoroughfare plan.

2. LOCATION

For outdoor flea markets only, the lot shall be 300 linear feet from any lot located in a residential district.

J. LAWN AND GARDEN SUPPLY, NURSERY WITH OUTDOOR STORAGE, OUTDOOR ANIMAL AND FEED SUPPLY

1. LOCATION

With the exception of the landscape plants offered for sale, all materials shall be contained with a building, except that open storage and sales areas may be maintained in a side or rear yard provided that such open storage and sales areas are contiguous to the building and are encircled by a fence of a design which is in harmony with the adjacent building.

2. SCREENING

A solid fence shall be designed as to screen all material and supplies from public view.

K. TATOO PARLOR

1. SEPARATION

Tattoo parlors shall be separated by at least three hundred (300) feet from any existing tattoo parlor. Distance between tattoo parlors shall be measured radially from the building wall of the establishment to the building wall of the referenced use at their closest points.

L. INTERNET/ELECTRONIC GAMING

1. PERMITTED ZONING DISTRICT

Internet/electronic gaming shall be permitted only in the B-1 (Neighborhood Commercial/Office) District and the C-1 (Light Commercial and Office) Districts as accessory uses and the C-2 (General Commercial District) as either a principal or accessory use, subject to the following requirements.

2. ACCESSORY USE

Internet/electronic gaming is allowed as an accessory use to the extent that the use functions are a use accessory, incidental, and subordinate in area, extent, and purpose to the principal use of the premises. Such accessory uses are allowed in convenience stores and restaurants. Accessory uses shall be limited to no more than four (4) individual machines or terminals. Within the B-1 and C-1 zoning districts, internet/electronic gaming is permitted as an accessory use only, and only provided that the associated principal use is permitted within the zoning district.

3. SEPARATION FROM CERTAIN USES

Internet/electronic gaming shall not be located within 200 feet in any direction from other internet/electronic gaming, or from any cemetery, congregate care facility, religious institution, municipal government facilities, including but not limited to municipal public parks, public or private child care center or child care facility, public or private school or non-profit club. This required separation shall apply whether the above uses are principal or accessory uses.

4. MAJOR GATEWAY SETBACKS

Internet/electronic gaming shall maintain a two hundred (200) foot setback along the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and shall extend one mile from the city limit line. For the purposes of this section, a major gateway is identified as an entry way into the City limits along any of the following transportation corridors: NC-3, NC-73, NC-49, Concord Parkway, US 601, Poplar Tent Road, George W. Liles Parkway, and Christenbury Parkway.

5. MEASUREMENT

All measurements in this Section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurement shall be in a straight line without regard to intervening structures. In the event that separate

internet/electronic gaming establishments are proposed to be located on the same parcel, measurement shall be from the outer building walls of the proposed use to the outer building walls of the existing use. A survey may be required to verify compliance with this provision.

6. ACCESS AND VISIBILITY

During hours of operation, internet/electronic gaming operations shall be open for direct, unobstructed access by police, fire and emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises. All internet/electronic gaming terminals/computers/machines/gaming stations shall be open and visible from the exterior front of the establishment.

7. AGE RESTRICTIONS

No person or entity engaged in internet/electronic gaming operations shall allow, permit, or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in internet/electronic gaming operations.

8. SIGNAGE

Signage shall meet all the requirements of Article 12 and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulating, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment. All rules of the internet/electronic games shall be displayed prominently within the establishment.

9. COMPLIANCE WITH OTHER REGULATIONS

The internet/electronic gaming establishment shall be subject to City of Concord privilege license fees, and shall be subject to all other standards of the City of Concord and State of North Carolina as applicable.

10. EFFECTIVE DATE

This ordinance shall be effective upon adoption.

M. BODY PIERCING

1. SEPARATION

Body piercing establishments shall be separated by at least three hundred (300) feet from any existing body piercing establishment. Distance between body piercing establishments shall be measured radially from the building wall of the establishment to the building wall of the referenced use at the closest point.

2. SIGNAGE

All signage to comply with Article 12, Signs Regulations.

N. BANQUET HOME

1. LOCATION

Banquet Homes shall only be established in accordance with the Use Table, subject to the following location limitations:

- A.** On a parcel with frontage on a major or minor thoroughfare;
- B.** On a parcel or combination of parcels in common ownership totaling no less than two (2) acres.

2. STRUCTURE

A residential structure which shall be used for a banquet home shall not be altered in any way that changes its general residential appearance.

3. APPROVAL CRITERIA

- A.** All required off-street parking shall be provided in the rear yard and shall be located in such a manner as to not be visible from the public right-of-way. For minimum off-street parking requirements see § 10.3.
- B.** Other than event guests, no meals shall be served to the general public.
- C.** A Class “C” buffer shall be required adjacent to all residentially zoned or developed properties. For additional landscaping and buffering requirements, see Article 11.
- D.** Lighting. All outdoor lights must be shielded to direct light and glare only onto the facility’s premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare shall be deflected, shaded and focused away from any adjoining residential property. A lighting plan illustrating compliance with these requirements shall be submitted as part of the special use permit application.
- E.** Signage. Signs for banquet homes shall meet the requirements of the Sign Regulations, Article 12, and the supplemental requirements set forth below.
 - 1.** Signage shall be limited to one ground sign per establishment.
 - 2.** Ground signs identifying banquet homes shall not exceed nine (9) square feet in area, nor four (4) feet in height. Such signs shall not be illuminated.
 - 3.** No additional advertising signs shall be permitted on the property.

4. SEPARATION

Banquet homes shall be separated by at least five hundred (500) feet from any existing banquet home. This measurement shall be calculated from property line to property line. Additionally, the

minimum separation from the banquet home structure and any adjacent single-family residence shall be at least fifty (50) feet.

O. BREWPUBS AND BREWERIES-MICRO

1. Brewpubs are allowed in C-1, C-2, CC, MX, PUD, I-1 and I-2 districts with the following prescribed conditions:
 - A. In the CC, PUD and MX districts, a brewpub shall comply with the regulations for the CC district Section 7.9. and any supplemental regulations associated with a PUD or MX district approval.
 - B. No outdoor amplified sound will be permitted after 11:00 pm. All activities shall comply with the City of Concord Noise Ordinance.
2. Breweries-Micro are allowed in C-1, C-2, CC, MX, PUD, I-1 and I-2 districts with the following prescribed conditions:
 - A. In the CC district a brewery-micro shall comply with the regulations for the CC district Section 7.9
 - B. In the C-1, C-2, CC, MX, and PUD districts brewery-micro shall have a tap room that is oriented to the street or main pedestrian entrance of the building. A minimum of 500 square feet shall be provided for the tap room and this area shall be open for business at least one quarter of the time each week the business facility is operating.
 - C. No loading or distribution activities shall take place outside of the enclosed building between the hours of 9:00 pm and 7:00 am when the brewery-micro is located within 200 feet of any residential or institutional use.

P. INDOOR RECREATION

1. Only one indoor recreation facility (go-kart or fitness/martial arts) shall be permitted per Combined Development and shall be located inside the structure adjacent to the primary entrance road.

Q. FOOD TRUCK VENDORS

Food truck vendors may operate within all commercial, industrial, and mixed-use zoning districts provided that they adhere to the conditions of applicable conditional zoning approval or the standards set forth below. They may also operate within multi-family developments where parking is provided.

1. Food Truck Service Areas:

- A. Food Truck Service Areas are defined as sites permitted for the operation of food trucks on a permanent or semi-permanent

basis. Accessory Food Truck Service Areas are secondary to the primary nonresidential use on the subject property and may contain a food truck use multiple times throughout the week over the course of a year.

- B. For locations outside the Center City Zoning District, where food trucks are not specifically addressed by conditional zoning, property owners may apply for a Certificate of Compliance to locate up to two Food Trucks on an existing site on a regular basis. This would permit up to two food trucks to operate on the site, daily, throughout the year. The COC is subject to annual renewal.
- C. For special events, a Temporary Use Permit, described in Section 8.8, may be acquired to allow more than 2 food trucks on a permitted site. Time limits for temporary food trucks apply in accordance with Section 8.8.
- D. Certificate of Compliance and Temporary Use Permit applications for Food Truck Service Areas shall include a site plan indicating the location of each food truck, seating, allocated parking for both the food truck and the primary non-residential use so that:
 - Parking standards for principle use of the site are not reduced below minimum required standards;
 - Vehicle circulation in parking lots and drive isles are not obstructed;
 - Fire lanes or pedestrian walkways are not encroached upon or blocked;
 - All operations associated with the food truck are a minimum of ten feet from all public rights-of-way.

2. Temporary Food Truck Operations:

- A. For sites wishing to allow Food Trucks on a more intermittent basis, a Temporary Use Permit under the terms of Article 8 must be obtained. A site plan, as detailed under section (REFERENCE SECTION C ABOVE) must be obtained by either the property owner or the food truck vendor. If the Temporary Use Permit is applied for by the vendor, written permission from the property owner must be provided in addition to the required site plan.
- B. Food trucks hired by firms or individuals for private events are not required to receive a temporary use permit from the City, but are not authorized to use public right of way for service.

3. Special Standards for the Center City Zoning District:

- A. All food trucks shall be located within a surface parking lot or within a designated parking space or spaces on public streets. However, no Food truck shall be located within designated

parking on Union Street.

4. Special Standards for Mixed-Use or Conditional District Zoning Districts:

- A. Special Standards for Mixed-use or conditional commercial zoning districts: Food trucks shall adhere to specific conditions set forth in the approved rezoning documents. If food trucks are not specifically addressed in the approved rezoning documents, they shall adhere to the standards of the commercial district regulations.

5. Other Regulations Applying to All Food Truck operations:

- A. All food trucks shall be located within a surface parking lot or within a designated parking space or spaces on public streets.
- B. Food Truck Vendors outside the Center City Zoning District shall not locate within 50ft of an existing single-family use.
- C. Food truck vendors shall have a minimum of 2 dedicated parking spaces per operation.
- D. Food truck operators are responsible for the proper disposal of waste and trash associated with the operation.
- E. No amplified music, microphones or bullhorns shall be permitted as part of the food truck operation.
- F. The only signage permitted for food trucks shall be a menu board, measuring no larger than 8sf, and placed no further than 10ft from the wall of the food truck. Menu boards shall not be illuminated.
- G. Pennants, balloons, facsimile signage, or other items barred by Article 12 are expressly prohibited.
- H. 75' of separation is required from the main entrance of the nearest restaurant during the restaurant's posted hours of operation.
- I. All food trucks must leave the Food Truck Service Area once every 24 hours, defined as between 6 AM and 5:59 AM the following morning, for at least 6 hours.

R. EVENT CENTER

- A. With the exception of the CC zoning district, an event center may be established only as an accessory use to another principal commercial use. All related activities shall be conducted within a totally enclosed structure.

S. COMMERCIAL USES IN RV AND RC DISTRICTS

In the RC and RV districts, authorized commercial uses shall comply with the following standards:

1. Commercial uses shall only be allowed as an accessory use to multi-family development.
2. The commercial use shall face an arterial street that abuts the multi-family development.
3. The cumulative gross leasable floor area of such uses shall not exceed five (5) percent of the gross floor area of the multi-family development in which they are located.
4. Commercial uses shall be limited to convenience retail, O-I, B-1, and C-1 uses, and restaurants.
5. No drive-in or drive-through services are permitted.
6. All such uses shall be limited to the ground floor of the structure in which they are located.

T. BAR/TAVERN

1. The provision of this section shall apply to any bar/tavern not defined as a private club or restaurant. Excluded are adult establishments, athletic and sports facilities, conference centers, cultural facilities, hotels and motels, and any use exempt in accordance with Alcohol Beverage Commission standards.
2. No bar/tavern shall be established within 200 feet of any of the following:
 - A. Any Residential Zoning District, Elementary School, Middle School, or High School;
 - B. Any Child Care Center or Child Care Facility;
 - C. Any Religious Institution; or
 - D. Any other existing establishment of the same kind
3. The distance restriction shall not apply within the Center City (CC), Planned Unit Development (PUD), Traditional Neighborhood Development (TND), Mixed Use (MX) zoning districts, or within any mixed use building where commercial and residential uses are integrated.
4. The distance measurement shall be made from the exterior building wall (or outdoor patio space) of the proposed use to the property line of the existing land use or zoning district.

U. STORAGE CONTAINER DEVELOPMENT. The City of Concord encourages creative design of development that is compatible and complementary to surrounding development. Recognizing the potential to design attractive developments that accomplish this goal, the City may approve the use of storage containers for principal and accessory structures in non-residential development subject to site plan approval. Storage containers shall not be used self-storage units in any district. In addition to the criteria established in Section 6.2 of this CDO, any development using

storage containers for habitable or authorized accessory storage structures shall:

1. Be designed so that all structures comply with adopted building code requirements;
2. Have all habitable structures connected to public water and sewer service;
3. Comply with CDO requirements for landscaping, screening and buffering; and
4. Demonstrate through a site plan and site development elevation drawings from all sides that the development will be complementary to and compatible with adjacent development.

V. VARIETY STORES. For purposes of this section, a variety store is a retail store that sells a wide variety of relatively small and inexpensive items, with less than 50 percent of the floor space devoted to food items. A store with at least 50 percent of the floor space devoted to food items that include fresh produce and fruit, dairy and meats shall be considered a grocery store and shall not be subject to the provisions of this section.

1. Variety stores are prohibited unless the proposed use is located more than 5,000 feet from another variety store.
2. If located less than 5,000 feet from another variety store, this use may be permitted by special use permit (“SUP”) only. In addition to the criteria for a SUP set forth in Section 6.2 of this CDO, when reviewing a request for SUP for a variety store use, the Planning and Zoning Commission shall consider:
 - a. Whether the proposed variety store will likely have a detrimental impact on the development of grocery stores and other businesses that sell fresh and healthy food items in the area to be served by the proposed use.
 - b. The availability of healthy food options in the area of the proposed use including the proximity of full-service grocery stores within one-half mile of the proposed use and effect of the use on the retail food environment index as defined by the Centers for Disease Control and Prevention.
 - c. Whether the proposed use is within a food desert, as defined by the United States Department of Agriculture at the time of application.

3. A SUP approved under this section must stipulate that a minimum of 10 percent of the floor area of the variety store must be dedicated to fresh produce and fruit, meat and dairy products.
4. Incidental outdoor display is prohibited at all variety stores.
5. A nonconforming variety store in existence on date of adoption of the provisions in this section, may relocate on the same parcel or within the same shopping center that it currently exists without obtaining a SUP provided the nonconforming variety store has not been terminated.

W. TRUCK AND HEAVY EQUIPMENT RENTAL. The provisions of this section apply to businesses renting or selling commercial trucks or heavy equipment.

- a. Up to three vehicles or pieces of equipment may be displayed in front of the principal structure or in an unscreened area abutting or visible from public right-of-way.
- b. Other than authorized display vehicles, all machinery, equipment, or vehicles stored outdoors shall be screened from view from adjacent sites, streets or sidewalks.
- c. Screening shall consist of an opaque fence, wall, berm or combination thereof measuring six to ten feet in height and a vegetative screen planted outside the fence, wall or berm. Plantings shall be evergreen, shall be at least eight feet in height at the time of planting and shall have a mature height sufficient to obscure outdoor storage areas within five years of planting.

8.3.6 OUTDOOR STORAGE AND STORAGE FACILITIES

A. Outdoor Storage and Solid Waste Storage Standards in Residential Zoning Districts

1. GENERAL PROVISIONS

In the RE, RL, RM-1, RM-2, RV, RC, TND, PID, PUD, PRD, CC districts, open storage of junk, salvage or equipment including but not limited to scrap metal, used boxes, or crates, used appliances, salvaged furniture or glassware, salvaged automobiles or parts is prohibited. The provisions of this paragraph shall not apply to any existing use(s) that is considered a legal nonconforming use as set forth in § 13.1, provided however, that no existing outdoor storage area may be expanded or enlarged except in accordance with the

provisions herein.

B. Outdoor and Solid Waste Storage Standards in Non-Residential Zoning Districts

1. GENERAL PROVISIONS

In the AG, B-1, C-1, C-2, CI, PUD, I-1 and I-2 districts, outdoor storage areas shall comply with the following, except that allowed under §§8.3.6 C., 8.3.6 E.

2. LOCATION

Outdoor storage areas are prohibited within 50 feet of any public street right-of-way and within 500 feet of residential uses and/or residential zoning districts. This provision shall not apply to nursery stock in non-residential zoning districts. No open storage area shall be maintained in the required front yard area, except that allowed by § 8.3.6.E.

3. SCREENING

Outdoor storage areas shall be screened by a Type C buffer yard in accordance with Article 11. This provision shall not apply to Junk Yards/ Salvage Yards (see § 8.3.6.B.). Except for integral units (see Article 14, Definitions), openly stored items shall not project above the screening. Notwithstanding this requirement, no item may exceed the building height restrictions in Table 7.6.2 A. for the zoning district within which the item is located. Fences of chain link, sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, are not sufficient materials to screen outdoor storage areas or operations.

4. STORAGE AS PART OF AGRICULTURAL OPERATIONS

The provisions of this § 8.3.6 shall not apply to open storage associated with agricultural uses as permitted in Table 8.1.8.

C. Solid Waste Storage Areas

1. LOCATION

Solid waste dumpsters or other large containers for solid waste storage shall be confined in an enclosed area that is screened on all sides. A solid waste enclosure, large enough to confine solid waste items and dumpster(s), should be of solid opaque construction, with latching gates providing access. The applicant shall indicate on the site plan the choice of materials and color so that the Administrator can determine that they are consistent and compatible with those of the principal building(s) on the site. No solid waste storage area shall be located in any front building yard setback as described in Table 7.6.2 A and 7.6.2 B. or any street yard or buffer yard as set forth in Article 11.

2. MATERIALS

Enclosures shall be constructed of durable, weather-proof,

permanent materials such as concrete or stone block, metal, wood or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site.

3. CONTAINER TYPE

Solid waste dumpsters or other large containers for solid waste storage shall have a lid to minimize the potential contamination of stormwater runoff.

4. FENCING

Fences of chain link, sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, are not sufficient materials to screen solid waste storage areas.

5. APPLICATION

The provisions of this § 8.3.6.C. shall apply to all non-residential development, multi-family residential developments and/or single-family attached residential developments, which do not use roll-out containers for curbside solid waste pickup.

D. Outdoor Storage Standards as Part of Retail Uses

1. GENERAL PROVISIONS

The provisions of this section shall apply to any retail use that includes the sale or storage of merchandise in an open or unenclosed area except as provided in §8.3.5.G. The provisions of this section § 8.3.6.D.shall not apply to the CC district or to sidewalk vendors permitted under the temporary use regulations of § 8.7.

2. DISPLAY LOCATIONS

No booths, stalls, or materials on display may be located within any required setback area. Outdoor display areas shall not be located in such a manner as to displace or otherwise interfere with any required parking spaces and maneuvering areas.

Non-enclosed areas for the storage and sale of seasonal inventory shall be:

A. permanently defined on an approved site plan;

B. completely screened from view from a public street right-of-way or an adjacent residential zoned parcel with walls and/or fences; and

C. comprised of materials, colors, and design of screening walls and/or fences which shall conform to those used as in the principal structure. If such areas are to be covered, then the covering shall conform to the exposed roofing colors on the building.

3. TRUCK TRAILERS

Trailers intended for shipping or trucking purposes shall not be considered acceptable retail storage.

E. Mini-Warehouse/Self-Service Storage

1. PURPOSE

This Section sets standards for the establishment and maintenance of safe and attractive mini-warehouse developments that will remain a long-term asset to the community. The use of land for mini-warehousing/self-service storage shall be permitted as set forth in the Use Table subject to the criteria below.

2. MINIMUM/MAXIMUM LOT SIZES

- A. Minimum lot size - one (1) acre
- B. Maximum lot size - none in the I-1 and I-2 Districts. All other districts have a maximum lot size of five (5) acres.

3. BUILDING ARTICULATION

- A. The building height shall not exceed 48 feet and comply with the setbacks of Table 7.6.2 B.
- B. A parapet wall shall be constructed to screen roof-mounted heating and air conditioning and other equipment, if any.
- C. The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco, brick, stone, EIFS, etc. and painting of surfaces. Split-faced concrete block may be used as accent material, and cumulatively may not exceed 20 percent of the area of any individual exterior wall. The colors selected shall be compatible with the character of the neighborhood. Metal may not be used on any perimeter wall of any building. The front façade of all structures shall comply with Article 7.10.
- D. Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public street.

4. LANDSCAPING SCREENING AND BUFFERING

- A. A type "B" buffer yard as prescribed in Article 11 shall be provided around the perimeter of the mini-warehouse development.
- B. Signs or other advertising mediums shall not be placed within the buffer yard.
- C. All areas on the site not covered by pavement or structures shall be brought to finished grade and planted with turf or other appropriate ground cover(s) and shall conform to the standards and planting requirements of Article 11.
- D. Outdoor storage areas shall be located to the rear of the principal structure and be screened with a wooden fence, masonry wall, or type no less than eight (8) feet in height. The Administrator may permit a landscaped buffer that provides complete visual screening with a berm in some cases.

5. ON-SITE MANAGER OR SECURITY SYSTEM REQUIRED

No facility herein provided for shall be used or maintained unless and until an on-site manager shall be provided for such facility, or a security system has been installed.

6. COMMERCIAL ACTIVITY PROHIBITED

It shall be unlawful for any owner, operator or lessee of any storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units or other associated activities, or to permit same to occur upon any area designated as a storage warehouse.

7. PROHIBITED USES

- A. No portion of any Mini-Warehouse/self-service storage shall be used, on a temporary or permanent basis, as a dwelling.
- B. Repair of Autos, Boats, Motors and Furniture Prohibited; Storage of Flammable Liquids Prohibited
- C. Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank is prohibited within any structure on a tract of land designated as a mini-warehouse. All mini-warehouse units shall be made available for inspection by the Fire Marshal for uses of the property for purposes other than dead storage.

8. LIGHTING

All outdoor lights must be shielded to direct light and glare only onto the Lot or Parcel which the Mini Warehouse is located. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

9. OUTSIDE STORAGE

No outside storage shall be permitted except for the storage of recreational vehicles per paragraph 13.d. Outdoor Storage areas shall not be permitted within a required setback or perimeter buffer;

10. ACCESSIBILITY

Vehicular ingress-egress locations into the property shall provide for the safe access of customers and emergency vehicles.

11. OFF-STREET PARKING STANDARDS

- A. Location of Customer Parking. Parking shall be provided by parking/driving lanes adjacent to the buildings.
- B. Interior Travel Lanes. Interior travel lanes shall have a minimum width of (12) feet for one way travel lanes and (24) feet for two way travel lanes.
- C. Off-street Parking. One parking space is required for every 200

storage units with a minimum of two spaces required. The parking spaces shall be provided adjacent to the manager's office.

- D. Vehicular Storage. Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for recreational vehicle storage so long as it complies with 8.3.6.E.6.

12. ACCESSORY USES

The sale of customary equipment and supplies, such as hand trucks, straps, and tape, are permitted on site.

13. DEVELOPMENT IN C-2 DISTRICTS

Mini warehouse facilities may be developed in C-2 zoning districts provided that visibility from the public right-of-way is minimized. This standard may be accomplished through a combination of landscaping, screening, fences/walls or through the placement of an intervening use between the public right-of-way and the mini-warehouse use.

F. Manufactured/Modular Home and Storage Building Sales

1. APPLICABILITY

The provisions of this Section shall apply to any tract of land designed or intended for the display and sale of bulky items including manufactured homes, modular homes, and/or enclosed storage (accessory) buildings and boats.

2. CRITERIA

A. Site Plan Requirements. In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off-site views. Other accessory uses (such as sales of items not described in this Section) may not locate on the site unless the use has been designated on the site plan. In the case of manufactured and modular home sales, the number of home display pads shall be noted on the plan.

B. Setbacks. All display pads shall be located at least thirty (30) feet from any property line or public street right of way line. Setbacks for permanent structures such as an office shall be located in accordance with the underlying district.

C. Type of Manufactured Home. All manufactured homes displayed for sale (not in screened storage or repair areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.

D. Required Paving. All travel lanes, access lanes, areas,

sidewalks, and parking spaces shall be paved. Display, storage and repair areas may be gravel.

- E. Storage and Repair Areas.** Storage and repair activities shall be completely screened from off-site views. Homes or buildings not for immediate sale, or replacement or discarded parts and accessories shall also be screened from off-site views.
- F. Sidewalks.** Four (4) foot wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian connections from the parking area to each displayed item (pad) and the office.
- G. Signs.** Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display item may have a sign not to exceed three square feet in area which gives information about the item.
- H. Display Pads.** All manufactured or modular homes and storage buildings shall be located on a pre-determined display pad (shown on the site plan) equaling no more than 120 percent of the structure's footprint. Display pad may be paved and/or graveled.
- I. Manufactured or Modular Home Display Areas.** A minimum separation of at least ten (10) feet shall be maintained between display pads. Display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material (skirting, low fence or landscaping) around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.
- J. Storage Building Display Areas.** A minimum separation of at least five (5) feet shall be maintained between display pads.
- K. Landscaping Requirements.** In addition to the landscaping requirements found elsewhere in this Ordinance, the display area for manufactured and modular home sales shall include the installation of one ornamental tree or shade tree, two medium shrubs and six small shrubs per display pad. The location of the plantings shall be determined by the Administrator but the intention is to provide each space with a permanent, residential appearance. Portions of any display area not included in individual display pads shall be grassed or mulched and suitably landscaped. No display area may be entirely paved.

G. Motor Vehicle and Boat Sales, Lease, Rental

1. APPLICABILITY

The provisions of this Section shall apply to any Automobile/Boat Sales or Rental establishment as allowed by the Use Table.

2. ACCESSORY USES

- A. In addition to the accessory uses set forth in § 8.4, the following accessory uses are permitted for any Automobile/Boat Sales Establishment:
- B. Sales, office, parts, service, storage, and body shop facilities accessory to new Automobile/Boat Sales establishments.
- C. Storage, body shop, washing, fueling, painting facilities, and air quality certification.
- D. Temporary automobile sales offices and display areas (interior or exterior). Such uses shall be allowed for a period not to exceed two years from the date approved by the City. The period may be extended for up to an additional one year if the permanent facility is under construction prior to expiration of the initial two-year period but not yet complete.

3. DISPLAY AREA

- A. The outdoor vehicle display area shall not exceed 60,000 square feet of continuous paved surface. For sales or rental operations occupying space in a combined development of 25,000 square feet or less, a maximum of six vehicles for sale shall be stored or displayed on site. For sales or rental operations occupying space in a combined development of more than 25,000 square feet, the maximum number of vehicles shall be restricted by the available spaces on site that are in excess of the off-street parking requirements established in Article 8.
- B. For purposes of this Section, a paved surface shall not be considered “continuous” if it is separated by a Type A buffer yard (as set forth in Article 11) along the boundary between the display areas. The buffer yard may be penetrated by a driveway of not less than twelve (12) or more than eighteen (18) feet in width for every one hundred fifty (150) feet in buffer yard length.
- C. No vehicles may be displayed or stored on or within required buffer yards, including required street yards.
- D. Paved areas reserved for the storage or display of vehicles for sale shall not be required to be striped for individual vehicle spaces. However, off-street parking for employees and patrons shall be required to conform to the design provisions of §10.3. No vehicle for sale shall occupy a required space per § 10.3.

H. Outdoor Storage of Junk or Non-Operating Vehicles

- 1. For outdoor display of vehicles for sale, see § (8.3.6.G).
- 2. For outdoor storage of vehicles in need of major repair, such vehicles shall be located within an area screened from view from a public right-of-way or an adjacent property line. Storage of vehicles in need of minor repair are exempt from the requirements of this section. Minor repair shall include vehicles scheduled for immediate repair and shall be stored on-site for no more than five

working days (unless evidence can be provided to the Administrator to indicate circumstances, such as part availability, prevent repair in within the five day period) All screening shall follow the requirements below.

3. Trailers intended for shipping or trucking purposes shall not be considered acceptable retail storage.

4. **SCREENING REQUIREMENTS**

- A. **SCREENING LOCATION** - Storage areas shall be completely screened from view from a public street right-of-way or an adjacent residential zoned parcel with walls and/or fences and placed outside of all site triangles.

- B. **COVERED STORAGE AREA** - Covered storage areas shall be composed of materials and colors that are compatible with those used on the principal structure.

- C. **CUSTOMARY MATERIALS** - Fences and walls shall be constructed of customary materials, including solid wood, brick, masonry, stone, brick, or products designed to resemble these materials. If a structure exists on the property, design of screening walls and/or fences shall be compatible with those used on the principal structure. Where specific materials are specified for particular types of screening fences or walls, all other fence materials are prohibited (i.e. in a Conditional District)

- D. **FINISHED SIDE TO OUTSIDE** - Wherever a fence or wall is installed, if one side of the fence or wall appears more “finished” than the other (i.e. one side has visible support framing and the other does not), then the more “finished” side of the fence shall face the perimeter or outside of the lot, rather than facing the interior of the lot.

- E. **UNIFORMITY OF MATERIALS ON A SINGLE LOT SIDE** - All fencing or wall segments located along a single lot side shall be composed of a uniform material and shall be of a uniform color.

- F. **LANDSCAPE SCREENING** - Landscaping is required in front of screened areas facing public right of ways and along conforming residentially zoned property boundaries that touch the subject tract. Fences and walls that exceed two-and-one-half (2½) feet in height and are located within twenty (20) feet of a public right-of-way shall meet the following landscaping standards:

- One (1) evergreen shrub shall be installed for each five (5) feet of frontage along the public right -of-way. Shrubs may be installed in a staggered, clustered, grouped, or linear fashion, and all plantings shall be installed on the side of the fence that faces the public right-of-way. The minimum shrub size shall be 3’ at the time of planting.

- G. **INTEGRATION WITH OTHER REQUIRED LANDSCAPING** - Required landscape screening for fences or walls may be

integrated into the landscaping required for streetscape landscaping, vehicular use area screening, or perimeter landscape buffers provided the standards in Article 11, Landscaping Standards, are maintained. In no case shall fencing or required walls be placed between the edge of the right-of-way and any required streetscape landscaping.

H. MAINTENANCE REQUIRED - All fences and walls shall be maintained in good repair and in a safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements. All fences and walls shall receive regular structural maintenance to prevent and address sagging and weathering of surfaces visible from the public right-of-way. Any deteriorated, damaged or decayed fence materials shall be promptly repaired, and any fence or wall post or section that leans more than twenty (20) degrees from vertical shall be promptly repaired to correct that condition.

5. SIGHT TRIANGLES AND SIGHT DISTANCE TRIANGLES

Fences and walls shall not be placed in site triangles and shall comply with the TSM.

6. PROHIBITED FENCES

A. CHAIN LINK AND METAL-SLAT FENCING - Fences and walls constructed of chain link or metal slats shall be prohibited within the front yard in all zone districts, except the Industrial zone districts, when the landowner can demonstrate through a security plan that such fencing is necessary to maintain public safety or on-site security.

B. BARBED WIRE AND ABOVE GROUND ELECTRIFIED FENCES PROHIBITED - Barbed wire fences and above ground electrified fences are prohibited in all zone districts. Underground electric fences designed for control of domestic animals are permitted.

C. DEBRIS, JUNK, ROLLED PLASTIC, SHEET METAL, PLYWOOD, OR OTHER WASTE MATERIALS - Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited in all zone districts, unless such materials have been recycled and reprocessed into building materials marketed to the general public and resemble new building materials.

I AUTOMOBILE REPAIR (MAJOR/MINOR)/TIRE SALES

Enclosed structures and/or bay doors shall be provided and repairs/tire installation shall take place within the building.

8.3.7 INDUSTRIAL USES

A. Catering

1. APPLICABILITY

- A. The provisions of this Section shall only apply to any Catering operation as a Home Occupation (see §8.5)
- 2. MAXIMUM AREA.**
- A. Area set aside for catering as a home occupation shall occupy no more than twenty-five percent (25%) of the gross floor area of the dwelling unit.
- 3. OUTDOOR STORAGE**
- A. No outdoor storage or display of items associated with catering as a home occupation is permitted.
- 4. OPERATION.**
- A. Catering as a home occupation shall be conducted entirely within a dwelling unit exclusive of a garage or carport. It shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes and shall not change the outward appearance of the residence. Catering as a home occupation is not permitted in a detached garage or in any other accessory structure.
- B. All food items created as part of a catering home occupation shall be served and consumed at locations other than the home.
- C. In accordance with § 8.5, no more than one (1) non-resident shall be employed on site. All other persons who are not occupants of the dwelling may be employed in connection with the home occupation provided they:
- do not work at or on the site of the dwelling;
 - do not report to work at or near the dwelling;
 - do not go by the dwelling to pick up orders, supplies or other items related to the catering home occupation;
 - do not report to the dwelling for pay;
 - do not associate with the dwelling in a manner which could be interpreted as part of a normal employer/employee relationship.
- D. Catering home occupation activities shall not generate traffic, parking, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the district in which it is located
- E. Only one vehicle owned by the operator of the home occupation and used in coordination with the business may be stored on site. This does not preclude occasional deliveries by parcel post or similarly sized vehicles consistent with normal use of the property for residential purposes that do not impede the safe flow of traffic.
- 5. COMPLIANCE WITH OTHER REGULATIONS.**
- A. All catering home occupations shall comply with all applicable Federal, State and local regulations.

B. Hazardous Waste Facilities / Sanitary Landfill

1. PURPOSE AND INTENT

The purpose and intent of this Section is to provide supplementary guidance and standards for the issuance of permits for hazardous waste facilities. State law restricts the extent to which local zoning may regulate hazardous waste facilities. To the extent not preempted by NCGS § 130A-293, et seq. hazardous waste facilities shall be permitted only in the zoning districts indicated in the Use Table.

2. CRITERIA

Consistent with NCGS § 130A-293, no zoning compliance permit shall be approved until a special use permit application has been approved. Prior to the filing of any application for a zoning compliance permit, the designated North Carolina state agency shall examine the criteria for issuance of a special use permit and shall submit its recommendation to the North Carolina Environmental Management Commission. No special use permit or zoning compliance permit shall be issued unless the applicant first:

- A. Obtains a permit from the State of North Carolina; and
- B. Obtains a franchise from the City of Concord pursuant to NCGS § 160A-319; and
- C. Submits a copy of the State permit and all applications to the Administrator.

C. Junkyard / Salvage Yard

No junkyard shall be established, operated or maintained, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, or a North Carolina route except the following:

1. Those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main-traveled way of the highway at any season of the year or otherwise removed from sight or screened in accordance with the rules and regulations contained in this ordinance.
2. No yard or storage lot shall be placed or maintained within a required yard setback or buffer.
3. No material may be stacked so that it is visible off of the site.
4. All existing junk yards and salvage yards shall be in compliance with this ordinance no later than January 1, 2008.

D. Land Clearing / Inert Debris (LCID) Landfills and Storage Yards

1. GENERAL

A. The owner of the land where the storage yard (temporary or permanent) or landfill is located must notify the Administrator on a prescribed form, duly signed, notarized, and recorded as

per section (b) below. The operator of the landfill, if different from the land owner, shall also sign the notification form.

- B. The owner must file the prescribed notification form for recordation in the Register of Deeds' Office. The Register of Deeds shall index the notification in the grantor index under the name of the owner of the land in the county or counties in which the land is located. A copy of the recorded notification, affixed with the Register's seal and the date, book and page number of recording shall be sent to the Administrator.

2. FOR LANDFILLS ONLY

When the land on which the Land Clearing and Inert Debris Landfills sold, leased, conveyed, or transferred in any manner, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a Land Clearing and Inert Debris Landfill and a reference by book and page to the recordation of the notification.

An individual permit is required for the construction or expansion and operation of a Land Clearing and Inert Debris (LCID) landfill or storage yard when:

- A. The facility is to be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash. Operations must be consistent and in compliance with the City of Concord solid waste management plan as approved by the Division of Solid Waste Management, and
- B. The total disposal area is greater than one-half acre in size.

3. PERMITS

Individual permits for land clearing and inert debris landfills shall be issued for not more than five years.

A. Landfills that are currently permitted as demolition landfills are required to comply with the following:

1. Only waste types as described in section 2.A. above may be accepted for disposal, as of the effective date of this ordinance unless otherwise specified in the existing permit.
2. Operations must be in compliance with the Operational Requirements for LCID Landfills (below).
3. Existing demolition landfills must comply with the siting criteria requirements of these Rules as of January 1, 2012 or cease operations and close in accordance with this ordinance.
4. Existing storage yards shall comply with all the requirements of this Ordinance by July 1, 2007 or cease operation and close in accordance with this ordinance.

4. SITING CRITERIA FOR LAND CLEARING AND INERT DEBRIS (LCID)LANDFILLS AND STORAGE YARDS

- A. The following siting criteria shall apply for Land Clearing and Inert Debris (LCID) landfills:
1. Facilities or practices, shall not be located in the 100-year floodplain.
 2. Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.
 3. Facilities or practices shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17 which is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605 or at the offices of the Administrator, where copies can be obtained at no cost.
 4. Facilities or practices shall not damage or destroy an archaeological or historical site.
 5. Facilities or practices shall not cause an adverse impact on a state park, recreation or scenic area, or any other lands included in the state nature and historic preserve
 6. Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).
 7. It must be shown that adequate suitable soils are available for cover, either from on or off site.
- B. Land Clearing and Inert Debris landfills and storage yards shall meet the following surface and ground water requirements:
1. Facilities or practices shall not cause a discharge of pollutants into waters of the state that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act, as amended.
 2. Facilities or practices shall not cause a discharge of dredged materials or fill material into waters of the state that is in violation of the requirements under Section 404 of the Clean Water Act, as amended.
 3. Facilities or practices shall not cause non-point source pollution of waters of the state that violates assigned water quality standards.
 4. Waste in landfills and storage yards with a disposal area greater than one-half acre shall be placed a minimum of four feet above the seasonal high water table, except where an alternative separation is approved by the Division.
 5. Waste in landfills and storage yards with a disposal area less

than one-half acre shall be placed above the seasonal high water table.

- C. The facility shall meet the following minimum buffer requirements:
 - 1. 50 feet from the waste boundary to all surface waters of the state as defined in G.S. 143-212.
 - 2. 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.
 - 3. A Type D [See Art. 11] buffer is required, but may be adjusted as necessary to insure adequate protection of public health and the environment.
- D. The facility shall meet all requirements of any applicable zoning ordinance.

E. Operational Requirements for Land Clearing/Inert Debris (LCID) Landfills and Storage Yards

- 1. Land Clearing and Inert Debris (LCID) landfills and storage yards shall meet the following operational requirements:
 - A. Operational plans shall be approved and followed as specified for the facility.
 - B. The facility shall only accept those solid wastes which it is permitted to receive.
 - C. Solid waste shall be restricted to the smallest area feasible and compacted as densely as practical into cells.
 - D. For landfills ONLY; Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.
 - E. For landfills ONLY; 120 calendar days after completion of any phase of disposal operations, or upon revocation of a permit, the disposal area shall be covered with a minimum of one foot of suitable soil cover sloped to allow surface water runoff in a controlled manner. The City may require further action in order to correct any condition which is or may become injurious to the public health, or a nuisance to the community.
 - F. Adequate erosion control measures, structures, or devices shall be utilized to prevent silt from leaving the site and to prevent excessive on site erosion.
 - G. For landfills ONLY; Provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days upon completion of any phase of landfill development.
 - H. The facility shall be adequately secured by means of gates, chains, berms, fences, etc. to prevent unauthorized access except when an operator is on duty. An attendant shall be on duty at all times while the landfill or storage yards is open for

public use to assure compliance with operational requirements and to prevent acceptance of unauthorized wastes.

- I. Access roads shall be of all-weather construction and properly maintained.
- J. Surface water shall be diverted from the working face and shall not be impounded over waste.
- K. Solid waste shall not be disposed of or placed in water.
- L. Open burning of solid waste is prohibited.
- M. The concentration of explosive gases generated by the facility shall not exceed:
- N. Twenty-five percent of the lower explosive limit for the gases in facility structures.
- O. The lower explosive limit for the gases at the property boundary.
- P. Leachate shall be properly managed on site through the use of current best management practices.
- Q. Should the City deem it necessary, ground water or surface water monitoring, or both, may be required as provided for under 15A N.C.A.C. 13B.0601 and .0602.
- R. A sign shall be posted at the facility entrance showing the contact name and number in case of an emergency and the permit number.

2. Approval Process

- A. Site Plan Approval is required. See the Site Plan Approval requirements in Article 5.
- B. Zoning Map Amendment and Special Use Permit are required, if applicable. Refer to the Use Table in § 8.18 and the procedures for zoning map amendments in Art. 3.
- C. Zoning Clearance. No demolition landfill shall be established until a zoning clearance permit is obtained from the Administrator.
- D. Duration of Permit. A zoning clearance permit shall be effective for a twelve-month period. The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project. The Administrator shall renew the zoning clearance if a written finding is made that the construction project is ongoing.
- E. Application Requirements. In addition to the requirements for a site plan found at §5.4 the following information must be submitted at the time of application for such permit:
 - Survey. A survey showing the exact location of the proposed demolition landfill or storage yards within the entire project.
 - Contents of Landfill. A statement detailing all contents of the landfill or storage yard.

- Reclamation of Landfill Area. A statement detailing the plans for reclaiming the landfill at the end of its use.
 - Future Building Plans. A statement describing plans for future building, if any, on the landfill or storage yard site.
- 3. Additional Application Requirements for Land Clearing/Inert Debris (LCID) Landfills and Storage Yards (i.e. in addition to site plan info)**
- A.** The following information is required in order to review and approve the siting of a Land Clearing and Inert Debris (LCID) landfill:
1. Information showing that the bottom elevation of the waste shall be four feet above the seasonal high water table. Seasonal high water table elevations shall be obtained from on site test borings, test pits, or from other geological or water table investigations, studies, or reports from the immediate area of the proposed facility.
 2. A copy of the deed or other legal description of the site that would be sufficient as a description in an instrument of conveyance, showing property owner's name.
 3. Any other information pertinent to the suitability of the proposed facility.
- B.** The following shall be provided on a map or aerial photograph with a scale of at least one inch equals four hundred feet showing the area within one-fourth mile of the site:
1. Entire property or portion thereof owned or leased by the person providing the disposal site.
 2. Location of all homes, buildings, public or private utilities, roads, wells, watercourses, water or other impoundments, and any other applicable features or details.
 3. Historical or archaeological sites, if any.
 4. Park, scenic, or recreation area boundaries, if any.
 5. Existing pertinent on site and adjacent structures such as houses, buildings, wells, roads and bridges, water and sewer utilities, septic fields, and storm drainage features.
 6. Springs, streams, creeks, rivers, ponds, and other waters and impoundments.
 7. Wetlands, if any.
 8. Boundary of the proposed waste area.
 9. Existing topography with contours at a minimum of five foot intervals. Where necessary, a smaller interval shall be utilized to clarify existing topographic conditions.
 10. FOR LANDFILLS ONLY: Proposed excavation, grading, and

final contours at a minimum of five-foot intervals. Where necessary, a smaller interval shall be utilized to clarify proposed grading. Excavation, grading, and fill material side slopes shall not exceed three to one (3:1).

11. Where on site borrow for operational and final cover is proposed, indicate the borrow excavation and grading plan with contours at a minimum of five-foot intervals. Where necessary, a smaller interval shall be utilized to clarify proposed grading.
12. Location of test borings or test pits, if used to determine the seasonal high water table elevation, shall be shown on the plans.
13. A minimum of two cross-sections, one each along each major axis, per operational area showing:
 - Original elevations.
 - Proposed excavation.
 - Proposed final elevations.
14. A copy of the operational plan approved by NC DENR under 15A NCAC § 13B.0566

F. PRODUCT DISTRIBUTION CENTER, WAREHOUSING AND STORAGE, NON-FARM RELATED PRODUCTS

The facility shall be located on an arterial or thoroughfare. The use may be considered within an industrial park if the street accesses an arterial or thoroughfare and the street is constructed to accommodate projected truck traffic, and the street does not serve passenger vehicle traffic other than employees or customers of the development in which the proposed facility is located.

G. TRUCK TERMINALS AND SUPPORT FACILITIES

The facility shall be located on an arterial or thoroughfare. The use may be considered within an industrial park if the street accesses an arterial or thoroughfare and the street is constructed to accommodate projected truck traffic, and the street does not serve passenger vehicle traffic other than employees or customers of the development in which the proposed facility is located. All loading areas shall be designed in such a manner as to not be visible from residential property. Overnight idling of trucks is prohibited and all repair operations shall be conducted inside an enclosed structure. Outside storage of spare or dismantled parts is prohibited. Outdoor storage of goods shall be completely screened from adjacent property and from the public right-of-way.

8.3.8 SOLAR FARMS

- A. **APPLICABILITY.** The provisions of this section shall apply to all ground mounted solar energy systems that are not accessory to another use on the same site on which the facilities are located.
2. **APPROVAL PROCESS.** All solar energy systems producing more than 5 kilowatts that function as a principal use shall require special use permit approval pursuant to Section 6.2 of this CDO.
3. **APPROVAL CRITERIA.** In addition to the requirements of Section 6.2 solar farms shall comply with the following standards:
 - a. **Solar Access.** A property owner may obtain a solar easement from another property owner for the purpose of ensuring a Ground Mounted SES adequate exposure to sunlight.
 - b. **Lighting.** To reduce light pollution, lighting of a Ground Mounted SES shall:
 - i. be limited to the minimum reasonably necessary for its safe operation;
 - ii. be directed downward where reasonably feasible;
 - iii. incorporate full cut-off fixtures; and
 - iv. reasonably use motion sensors.
 - c. **Tree Removal.** The removal of trees or natural vegetation for a Ground Mounted SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of the CDO.
 - d. **Decommissioning.** Unless otherwise approved by the City, decommissioning shall begin no later than 12 months after a Ground Mounted SES has ceased to generate electricity:
 - i. For a Ground Mounted SES allowed without a permit, within 6 months of the beginning of decommissioning, the SES and all structures associated with it shall be removed, all materials shall be recycled or otherwise reused to the extent reasonably practicable, and the property shall be returned to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use; and
 - ii. For a Ground Mounted SES allowed with a permit, the SES shall be decommissioned in accordance with the most recent decommissioning plan approved by the Administrator, and as further described in the Special Use Permit provision of this CDO.
 - e. **Location.** A SES shall be located no closer than the required setback for the applicable zoning district or 50 feet from any residential zoning district.
 - f. **Visual Buffers.** An Intermediate Scale SES in a residential or agricultural district shall have, to the extent reasonably practicable, a visual buffer of

natural vegetation, plantings, earth berms, and/or fencing that provides a reasonable visual and lighting screen to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right-of-way). The existing natural tree growth and natural landforms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable. Any visual buffer must be established and maintained in accordance with the most recent visual buffer plan approved by the Planning and Zoning Commission pursuant to a Special Use Permit

- g. Signage. An Intermediate Scale SES shall display signs stating the risks that may result from contact with a SES, identifying the owner or operator of the SES, and providing a 24-hour emergency contact phone number.

4. SPECIAL USE PERMIT REQUIREMENTS. The following shall be contained in any special use permit application for a SES in addition to the requirements pursuant to Section 6.2:

- a. A site plan of the property that depicts the locations of all existing and proposed structures (including solar arrays, inverters, transformers, electrical substations, and buildings), property lines, rights-of-way, roads, required setbacks, and visual buffers;
- b. A topographic map that depicts vegetative cover, watersheds, or wetlands on the property;
- c. A visual buffer plan that demonstrates that any visual buffer (a) minimizes impacts of the SES on adjacent residential dwelling units, as required by this [ordinance], (b) preserves natural tree growth and natural landforms along the SES perimeter, as required by this CDO, and (c) adheres to any additional visual buffer requirements of this CDO that may further minimize impacts of the SES on the community character;
- d. A list that identifies (a) federal or state endangered, threatened, or candidate species that may be present on the property or within 1,000 feet of the property, and (b) critical habitat on the property or within 1,000 feet of the property;
- e. If the SES is located in an agricultural district, a map that identifies prime farmland and farmland of statewide importance on the property; and
- f. A decommissioning plan that contains the following:
 - i. The name, address, telephone number, and e-mail address of the person(s) or entity(ies) responsible for implementing the decommissioning plan;
 - ii. A statement of conditions that require the decommissioning plan to be implemented;

- iii. As part of decommissioning, a removal plan that identifies all structures, components, and non-utility owned equipment that shall be removed;
- iv. As part of decommissioning, a plan for recycling or otherwise reusing all materials to the extent reasonably practicable;
- v. As part of decommissioning, a restoration plan to return the property to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use after the SES is removed; and
- vi. A timeline to complete decommissioning.

8.4 Accessory Uses

8.4.1 PERMITTED ACCESSORY USES

A. The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the zoning districts set forth in Column B, below:

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings (subject to § 8.3.3.C)	See Use Table (Section 8.1.8)
Adult Day Care Home (up to 6 residents)	All Residential Zoning Districts
Family Day Care Home (up to 12 children, including both customers and family members)	All Residential Zoning Districts
Garages or Carports (noncommercial)	All Zoning Districts
Greenhouses (noncommercial)	All Residential Zoning Districts
Home Occupations (subject to § 8.5)	All Residential Zoning Districts
Off-Street Parking and Driveways	All Zoning Districts
Wireless Telecommunications Antennas or Tower (subject to § 8.7)	All Zoning Districts
Other Telecommunication Antennas or Tower	See Use Table (Article 8)
Satellite Dishes	All Zoning Districts
Signs (see Article 12)	All Zoning Districts
Storage Buildings (Residential)	All Zoning Districts
Swimming Pools (subject to § 8.4.4)	All Residential Zoning Districts
Stables/Private (see § 8.3.2.A)	AG, RE, RL
Tennis Courts (subject to the provisions of this Section)	All Zoning Districts
Any other Building or Use customarily incidental to the permitted Primary Use or Building (subject to § 8.4.2)	All Zoning Districts

B. Establishment

Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established, except as provided in section 8.8.3-D. Accessory buildings shall not be used for dwelling purposes, except as provided in section 8.3.3-C and 8.3.3.F.

8.4.2. LOCATION

A. Accessory structures shall be required meet the setback standards for

accessory structures as set forth in Section 7.6.3 Dimensional and Density Standards. Accessory structures may be located within a setback yard for principal structures and shall be regulated in accordance with the standards below. No accessory structure shall be located less than 36 inches from the exterior wall of the principal structure. Structures that are located closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

- B. For residential lots not exceeding two (2) acres, detached accessory structures shall not be located in the front yard. Detached accessory structures may be built in the required rear yard but such accessory structures shall not occupy more than thirty (30%) percent of the required rear yard and shall not be closer than five feet to any side or rear lot line or setback line.
- C. For residential lots exceeding two (2) acres, detached accessory structures may be located in the front yard but not closer than seventy-five feet (75') from the front property line/street right-of-way. Detached accessory structures may be closer than the distance specified above if they are not visible from a public street.
- D. The location of permitted non-residential accessory structures shall be governed by the same dimensional regulations as set forth for the principal use structure(s).
- E. Accessory structures on double frontage lots shall not be closer to either street than the required front yard setback.

8.4.3. HEIGHT

- A. Accessory structures shall not exceed fifteen (15) feet in height, where the accessory structure complies with the minimum accessory structure setback as specified in Table 7.6.2.B. The accessory structure may be two stories in height if the accessory structure complies with the minimum principal structure setback as specified in Table 7.6.2.B.

8.4.4. SWIMMING POOLS

A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any residential zoning district provided:

- A. The swimming pool and incidental installations are located in other than the front yard.
- B. If any pool contains at least four hundred fifty (450) square feet of water surface area or has a depth of thirty-six (36) inches or greater at its shallowest point, the pool shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four (4) feet in height. In the alternative, a pool cover shall be provided and shall be installed

whenever the pool is not in use.

- C. The swimming pool shall be set back from all lot lines a distance of not less than five (5) feet.

8.4.5. LIGHTING

Exterior lighting for accessory uses and/or structures shall be placed so as to not direct or reflect light upon adjoining land.

8.4.6. EXEMPTIONS TO ACCESSORY USE AND STRUCTURE REGULATIONS

- A. The following uses/structures shall be exempt from the provisions of this § 8.4:
 1. Fencing and walls;
 2. Mailboxes;
 3. Plant materials;
 4. Any structure or improvement, once installed, is at grade or less than 1 foot above grade.

8.1.7 ACCESSORY SOLAR FACILITIES

- A. **PURPOSES.** The purposes of this section are to:

- g. Meet the goals of the Comprehensive Plan and preserve the health, safety and welfare of the Community's citizens by promoting the safe, effective and efficient use of active solar energy systems.
- h. Encourage the use of local renewable energy resources, including appropriate applications for solar energy.
- i. Promote sustainable building design and management practices in residential, commercial, and industrial buildings to serve the needs of current and future generations.
- j. Assist local businesses to lower financial and regulatory risks and improve their economic, community, and environmental sustainability.
- k. Efficiently invest in and manage public infrastructure systems to support development and growth.
- l. Reduce dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources.
- m. Enhance the reliability and power quality of the power grid and make more efficient use of Concord's electric distribution infrastructure.
- n. Diversify the community's energy supply portfolio and exposure to fiscal risks associated with fossil fuels.

B. Applicability.

1. This section applies to the siting, construction, and installation of any new SES to be constructed or installed after adoption of the regulations in this section within the City of Concord. Any SES that, prior to adoption of the regulations in this section is in operation, is being lawfully sited, constructed, or installed, or has caused the incurrence of substantial liabilities relating to siting, construction, or installation shall be exempt from complying with this section, unless the surface area of an integrated ses or rooftop SES or the footprint of a ground mounted SES is increased by more than 25 percent after adoption of the regulations in this section.
2. Unless otherwise expressly stated herein, an SES shall comply with all applicable federal, state, and local laws, including the requirements of the CDO and applicable building, fire, electric, and plumbing codes. If a provision in this section directly conflicts with a requirement of the CDO, this section shall control.

C. Definitions

1. Solar Energy System (SES) means a device or structural design feature that provides for the collection of solar energy for electricity generation, consumption, or transmission, or for thermal applications. For purposes of the CDO, SES refers only to (1) photovoltaic SESs that convert solar energy directly into electricity through a semiconductor device or (2) solar thermal systems that use collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling. SES as used in the CDO excludes concentrated solar power, which uses mirrors to focus the energy from the sun to produce electricity.
2. Integrated Solar Energy System means an SES where solar materials are incorporated into building materials, such that the two are reasonably indistinguishable, or where solar materials are used in place of traditional building components, such that the SES is structurally an integral part of a house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building facade, skylight, shingles, canopy, light, or parking meter.
3. Rooftop Solar Energy System means an SES that is structurally mounted to the roof of a house, building, or other structure and does not qualify as an Integrated SES.

4. Ground Mounted Solar Energy System means an SES that is structurally mounted to the ground and does not qualify as an Integrated SES. For purposes of the CDO, any solar canopy that does not qualify as an Integrated SES shall be considered a Ground Mounted SES, regardless of where it is mounted. Ground Mounted SES may be accessory or principal uses. See Section 8.3.8 for regulations applicable to SES as a principal use.
5. Accessory SES may be established in any zoning district subject to the regulations in this section.

D. Permitted Accessory Use - Solar energy systems shall be allowed as an accessory use in all zoning classifications where structures of any sort are allowed, subject to certain requirements as set forth below.

E. Requirements for Solar Energy Systems.

1. **Solar Access.** A property owner may obtain a solar easement from another property owner for the purpose of ensuring the Integrated SES adequate exposure to sunlight.
2. **Tree Removal.** The removal of trees or natural vegetation for an Integrated SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of the CDO.
3. **Height** - Active solar energy systems must meet the following height requirements:
 - a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building mounted mechanical devices or equipment.
 - b. Ground- or pole-mounted solar energy systems shall not exceed twenty (20) feet in height when oriented at maximum tilt.
4. **Setback** - Solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.
 - a. **Roof-mounted Solar energy systems** - In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has

been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

- b. **Ground-mounted Solar energy systems** - Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt.

5. **Visibility.**

- a. **Building Integrated Photovoltaic Systems** - Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

- b. **Solar Energy Systems with Mounting Devices** - Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than twelve (12) inches above the roof.

- 6. **Coverage** - Roof or building mounted solar energy systems shall allow for adequate roof access.
- 7. **Historic Buildings** - Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) may be approved by the Administrator unless the Administrator determines that the systems have a significant impact on the appearance of the structure, in which case the solar energy system will require a certificate of appropriateness as provided in this ordinance.

F. Approved Solar Components - Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.

G. Plan Approval Required - All solar energy systems shall require plan approval by the Administrator.

1. **Plan Applications** - Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

a. **Pitched Roof Mounted Solar Energy Systems** - For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

b. **Flat Roof Mounted Solar Energy Systems** - For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

2. **Plan Approvals** - Applications that meet the design requirements of this ordinance, and are not subject to an administrative exception, shall be granted administrative approval by the Administrator. Plan approval does not indicate compliance with Building, Plumbing or Electric Code.

H. Compliance With Building Codes - All solar energy systems shall comply with applicable building, electric, plumbing and fire codes.

I. Utility Notification - All grid-integrated solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

J. Administrative Exceptions. Concord encourages the installation of productive solar energy systems and recognizes that a balance must be achieved between character and aesthetic considerations and the reasonable desire of building owners to harvest their renewable energy resources. Where compliance with the standards would prevent achievement of the minimum reasonable performance of the solar

energy system, an exception may be sought from the Administrator. An exception shall be granted by the Administrator if the applicant meets the following safety, performance and aesthetic conditions:

1. **Aesthetic Conditions** - The solar energy system must be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way other than alleys to the maximum extent possible while still allowing the system to be mounted for efficient performance.
2. **Safety Conditions** - All applicable health and safety standards are met.
3. **Non-Tracking Ground-Mounted Systems** - Pole-mounted or ground-mounted active solar energy systems must comply with setback standards for accessory buildings.

K. Restrictions on Solar Energy Systems Limited. No homeowners' agreement, covenant, common interest community, or other contract between multiple property owners within a subdivision of concord shall restrict or limit solar energy systems to a greater extent than concord's solar energy standards.

L. Solar Access. Concord encourages solar access to be protected in all new subdivisions and allows for existing solar to be protected.

1. **Solar Easements Allowed** - Concord has elected to allow solar easements to be filed. Any building owner can purchase an easement across neighboring properties to protect access to sunlight. The easement is purchased from or granted by owners of neighboring properties and can apply to buildings, trees, or other structures that would diminish solar access.
2. **Easements within Subdivision Process** - Concord may require new subdivisions to identify and create solar easements when solar energy systems are implemented as a condition of a PUD, conditional zoning or special use permit.

M. Solar Roof Incentives. Concord has identified the following incentives for development applications or subdivisions that will include buildings using active solar energy systems.

1. **Density Bonus** - Any application for subdivision of land in the RE, RL, RM-1, RM-2, RV, RC, PUD, PRD, MUD or TND Districts that will allow the development of at least four new lots of record shall be

allowed to increase the maximum number of lots by 10% or one lot, whichever is greater, provided all building and wastewater setbacks can be met with the increased density, if the applicant enters into a development agreement guaranteeing at least two kilowatts of PV or 64 square feet of solar hot water collector installed for each new residence.

2. **Commercial Parking Requirement Offset** - On a site where 90% of the potential solar access is unimpeded, and that has access to mass transit within 800 feet of the development site, or which has an approved Travel Demand Management (TDM) plan, or that has entered into a shared parking arrangement with another commercial business that has distinct peak parking profiles, the applicant substitute a requirement for grid-integrated photovoltaic systems for up to 30 percent of the parking requirement. For each parking space for which a solar energy substitution is made:
 - a. The photovoltaic system must have at least one (1) kilowatt (KW) of capacity with 90% unobstructed solar access; or
 - b. An active solar thermal system must have at least 64 square feet of solar collector.

8.5 HOME OCCUPATIONS

8.5.1 PURPOSE

A home occupation is permitted as an accessory use in the districts shown in 8.4.1-A and in the PUD, PRD, and TND Districts. The purpose of the home occupation regulations and performance standards are:

- A. to establish criteria for operation of home occupations in dwelling units within residential districts;
- B. to permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;
- C. to ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
- D. to ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;
- E. to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;
- F. to enable the fair and consistent enforcement of these home occupation regulations; and
- G. to promote and protect the public health, safety and general welfare.

No home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

8.5.2 LIST OF HOME OCCUPATIONS

The following list specifies those occupations that may be conducted at home. The home occupations permitted herein are allowed in a residential setting because they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

- A. Accounting, bookkeeping
- B. Appraisal
- C. Legal services
- D. Real estate sales
- E. Insurance sales
- F. Childcare / Family Daycare Home (see)
- G. Drafting services
- H. Tailoring (dressmaking, alterations, etc.) services
- I. Engineering, architecture and landscape architecture
- J. Financial planning & investment services
- K. Fine arts studio (creation of individual works only, no mass production)
- L. Interior decoration (no studio permitted)
- M. Lawn Care Services
- N. Mail order business (order taking only, no stock in trade)
- O. Musical instruction, voice or instrument
- P. Tutoring
- Q. Office work
- R. Catering (see 8.3.7-A for catering as a home occupation standards) (includes home-cooking and preservation of foods for the purpose of selling the products for off-premise consumption)
- S. Similar, low impact endeavor as determined by the Administrator

8.5.3 PERFORMANCE STANDARDS

Home occupations are authorized if they comply with the performance standards set forth in Table 8.6-1. A mark "X" indicates that the performance standard applies in the applicable district.

8.5.4 HOME OCCUPATIONS NOT PERMITTED

The following Uses shall not be permitted as home occupations in Residential Zoning Districts: medical/dental office, motor vehicle repair or similar uses, temporary or permanent motor vehicle display for purposes of sale or lease, restoration or conversion, engine repair,

furniture refinishing, gymnastic facilities, studios or outdoor recreation activities, medical/cosmetic facilities for animals including animal care or boarding facilities, machine shop/metal working, retail sales, commercial food preparation (excluding catering pursuant to §8.3.7-A), contractors shops, mortuaries, medical procedures, body piercing and/or painting, tattoos, or any type of physical or psycho therapy, or any other use not allowed in accordance with § 8.1.8.

8.5.5 EXEMPT HOME OCCUPATIONS

No Home Occupation Permit shall be required for the home occupations listed below, provided that they comply with all applicable home occupation regulations and standards of this Section, and provided further, that all persons engaged in such activities reside on the premises and the following conditions are satisfied:

- A. artists, sculptors, composers not selling their artistic product to the public on the premises;
- B. craft work, such as jewelry-making and pottery with no sales permitted on the premises;
- C. home offices with no client visits to the home permitted;
- D. telephone answering and message services.

8.5.6 UNSAFE HOME OCCUPATIONS

A. If any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to § 1.5 of this Ordinance.

8.5.7 EXPIRATION OF HOME OCCUPATION PERMIT

The Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, if the home occupation operator dies, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within thirty (30) days after written notice from the Administrator.

**8.6 TABLE 8.6-1
HOME OCCUPATION PERFORMANCE STANDARDS BY ZONING DISTRICT**

PERFORMANCE STANDARDS	AG	All other districts
The use shall be clearly incidental and secondary to residential occupancy.	x	x
The use shall be conducted entirely within the interior of the residence.		x
The use shall not change the residential character of the dwelling.	x	x
The use shall conform with applicable state and local statutes, ordinances and regulations and is reviewed by Administrator.	x	x
A full-time resident operator shall be employed.	x	x
Obtain permits before operating home occupation, except those exempted under § 5.12.7.	x	x
No more than one (1) non-resident employee shall be permitted.		x
Not more than 6 clients/day (limit 1 visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between the 8:00 AM and 8:00 PM.	x	x
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation	x	x
Music, ¹ art, craft or similar lessons: (12 or fewer clients per day)	x	x
Childcare (maximum of 8 or fewer children); see § 5.16	x	x
Demonstrate that public facilities and utilities are adequate to safely accommodate equipment used for home occupation	x	x
Storage of goods and materials shall be inside and shall not include flammable, combustible or explosive materials	x	x
Parking shall be provided only in driveway and shall not create hazards or street congestion	x	x

¹ provided all electronically amplified sound is not audible from adjacent properties or public streets.

Outside storage of heavy equipment or material shall be prohibited.		x
No more than three (3) commercial vehicles are to be stored on site, provided, the vehicles are owned/operated by the residents. No commercial vehicles may be stored on site on a regular basis which are not owned by persons residing on the premises.		x
Mechanized equipment shall be used only in a completely enclosed building		x
No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be that is perceptible beyond the property line.	x	x
Deliveries and pickups shall be those normally associated with residential services and shall a. not block traffic circulation b. occur only between 8:00 a.m. and 8:00 p.m. Monday-Saturday	x	x
Accessory Buildings shall not be used for home occupation purposes.		x
Signage shall comply with the following: a. Limited to one sign of four (4) square feet in area. b. Must be mounted flush against the wall of principal dwelling unit c. Shall not be illuminated.	x	x

8.7 Wireless Communications Facilities Generally

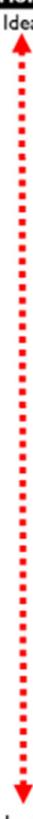
8.7.1 Purpose and Applicability

- A. This Section 8.7 applies to all telecommunications facilities except as specifically noted otherwise. Special procedures for qualifying small wireless facilities, qualifying utility poles, and qualifying city utility poles are addressed separately in Section 8.9.
- B. The purpose of this section is to:
 - 1. Minimize the impacts of wireless communication facilities (WCFs) on surrounding areas by establishing standards for location, structural integrity and compatibility;
 - 2. Encourage the location and collocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna-supporting structures;
 - 3. Encourage coordination between suppliers of wireless communication services in the City of Concord;
 - 4. Respond to the policies embodied in the Telecommunications Act of 1996 and section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a) and in accordance with the rules promulgated by the Federal Communications Commission;
 - 5. Protect the unique natural beauty and rural character of the City while meeting the needs of its citizens to enjoy the benefits of wireless communications services; and
 - 6. Encourage the use of public lands, buildings and structures as locations for wireless telecommunications infrastructure as a method to establish a precedence of quality concealment products that will minimize the aesthetic impact of related infrastructure while generating revenue for the City.
- C. Nothing in this ordinance shall be interpreted to excuse compliance with, or to be in lieu of any other requirement of state or local law, except as specifically provided herein. Without limitation, the provisions of this ordinance do not permit placement of telecommunications facilities on privately-owned utility poles or wireless support structures, or on private property, without the consent of the property owner or any person who has an interest in the property

8.7.2 SITING

WCFs and associated equipment shall be permitted in accordance with the use table in Section 8.2 subject to the following:

- A. Siting of a non-qualifying WCF shall be in accordance with the following siting alternatives hierarchy:

Priority	Facility/ Structure Type	Location	Example
Ideal  Less Desired	Concealed Attached Wireless Communication Facility	City or County Owned Site	
		Other Publicly Owned Site	
		Non-Publicly Owned Site	
	Collocation or Combining on Existing Antenna Supporting Structure	City or County Owned Site	
Other Publicly Owned Site			
Non-Publicly Owned Site			
Freestanding Concealed or Nonconcealed Attached WCF	City or County Owned Site	 or 	
	Other Publicly Owned Site		
	Non-Publicly Owned Site		
Freestanding WCF	City or County Owned Site		

- B. In determining the order of ranking preference, the facility/structure type shall be evaluated first, and only after the facility/structure type has been identified shall the location be evaluated. Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated below, including, but not limited to an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the Geographic Search Area, as determined by a qualified radio frequency engineer, higher ranked options are not technically feasible, practical, or justified given the location of the proposed WCF and the existing land uses of the subject property and surrounding properties within 300 feet of the subject property.
- C. In all residential districts, non-qualifying WCFs shall only be permitted on parcels with a minimum lot size of five acres.
- D. Nonconcealed attached non-qualifying WCFs shall only be allowed on transmission towers, buildings, water towers, subject to approval of the Administrator.
- E. In addition to locations authorized for non-concealed, attached WCFs in subsection D., concealed, attached WCFs shall be allowed on

transmission towers, buildings, water towers, utility poles in city right-of-way, city utility poles, and light stanchions, subject to approval of the Administrator.

- F. WCFs, wireless support structures, and associated equipment shall be constructed and maintained in conformance with all applicable building code requirements.
- G. WCFs and associated equipment shall not interfere with normal radio and television reception in the vicinity.
- H. Lighting shall not exceed the FAA minimum standard. Any lighting required by the FAA shall be of the minimum intensity and the number of flashes per minute (i.e., the longest duration between flashes) allowed by the FAA. Dual lighting standards shall be required and strobe lighting standards prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.
- I. Commercial messages shall not be displayed on any WCF.
- J. The WCF equipment compound shall not be used for the storage of any excess equipment or hazardous materials, nor be used as habitable space. No outdoor storage yards shall be allowed in a WCF equipment compound.
- K. The WCF shall cause no signal or frequency interference with public safety facilities or traffic control devices and shall not physically interfere with other attachments that may be located on the existing pole or structure.

Qualifying WCFs shall not be required to meet the siting requirements listed in subparts A. through D.

8.7.3 DIMENSIONS

When permitted, a WCF shall conform to the following dimensional requirements:

A. Heights

1. Attached WCF: The top of the WCF shall not be more than 20 feet above the building.
2. Freestanding Concealed or Nonconcealed WCF: In all residential zoning districts, the maximum height shall be limited to 25 feet above the allowable building height of the underlying zoning district. In all nonresidential districts the maximum height shall be 199 feet. This measure shall include the foundation of the WCF, but exclude lightning rods for the dissipation of lightning or lights required by the FAA that do not provide support for any antennae.
3. Mitigation of an existing WCF: The maximum height of a new WCF arising from mitigation shall not exceed 115% of the height of the tallest WCF that is being mitigated, to a maximum height of 199 feet.
4. Regardless of whether the facility is a qualifying WCF or a non-qualifying WCF, in no instance in an area zoned single family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the city grants a mitigation waiver or a variance approving a taller utility pole, city utility pole, or wireless support structure. For the purposes of this subsection, single family residential shall mean properties with the following zoning designation, unless otherwise defined by law: RE, RL, RM-1, RM-2, RV, or RC.

B. Setbacks

1. Attached WCF: The building or structure to which the WCF will be attached shall maintain the normal setbacks of the district. The attached, WCF may encroach into the setback not more than 5 feet.
2. Freestanding WCF: Setbacks for WCFs shall be determined according to the underlying zoning district, plus an additional eighteen inches for every one-foot of tower height. The approving authority may grant reductions to this setback requirement as a part of the special use permit approval. Qualifying freestanding WCFs shall be exempt from this provision.
3. Mitigation of an existing WCF: A new WCF approved as mitigation shall not be required to meet setback requirements so long as the new WCF is no closer to any property lines or dwelling units as the WCF being mitigated.

C. Buffers

1. A landscaped buffer shall surround the base of the WCF equipment compound. Existing trees and shrubs on the site should be

preserved and may be used in lieu of required landscaping where approved by the Administrator. Grading shall be minimized and limited only to the area necessary for the new WCF.

2. If the proposed WCF is the principal use of the property then landscaping per Article 11, Landscaping and Buffering, shall be applicable. Additionally a buffer equivalent to that required for an Industrial use adjoining a Residential use shall be provided around the WCF equipment compound.
3. If the proposed WCF is to be located in front of an existing structure on the same zone lot, a street buffer shall also be required.
4. In addition to the required landscape buffer, on sites in residential districts adjoining public rights-of-way an opaque fence shall surround the WCF equipment compound.

D. Aesthetics

1. Concealed attached WCFs, including feed lines and antennae, shall be designed so as to be compatible with the façade, roof, wall or structure on which it is affixing so that it matches the existing structural design, color and texture.
2. Freestanding concealed WCFs shall be designed so as to be compatible with adjacent structures and landscapes to the extent feasible with specific design considerations as to height, scale, color and texture.
3. Freestanding non-concealed WCFs, including those used for mitigation, shall be limited to monopole type antenna support structures.

E. Collocation Capacity

New non-qualifying wireless support structures must provide for collocation capacity as set forth herein:

- Freestanding nonconcealed structures up to 120 feet in height shall accommodate at least two antenna arrays.
- Freestanding nonconcealed structures between 121 feet and 150 feet shall accommodate at least three antenna arrays.
- Freestanding nonconcealed structures between 151 feet and 199 feet shall be engineered and constructed to accommodate at least four antenna arrays.

8.7.4 APPLICATION REQUIREMENTS

In addition to all of the requirements of site plan and Special Use Permit review (if required), the following information must be supplied with the site plan and use permit (if required) application for WCFs:

A. For an eligible facilities request:

1. Existing equipment on the wireless tower or base station
2. Proposed new equipment
3. Copy of lease agreement. Such submissions need not disclose financial lease terms.

4. Name and contact information for applicant as well as any contractors or consultants performing work on behalf of the applicant
5. Application fee
- B. For a substantial modification or a new non-qualifying wireless support structure:
 1. A complete site plan, certified by a professional engineer or other qualified professional, which demonstrates that the site and the wireless support structure complies as proposed with the standards set forth in this Section 8.7. The site plan shall include:
 - a. Height
 - b. Configuration
 - c. Location
 - d. Mass and scale
 - e. Materials and color
 - f. Illumination
 - g. Information addressing the following items:
 - i. The extent of any commercial development within the search ring of the proposed facility
 - ii. The proximity of the antenna support structure to any residential dwellings;
 - iii. The proximity of the antenna support structure to any public buildings or facilities;
 - iv. For a new wireless support structure, certification by a registered engineer that the facility has sufficient structural integrity to accommodate multiple users, and the number of additional users that can be accommodated.
 2. Identification of the intended user(s);
 3. Documentation from the FAA that the lighting is the minimum lighting required by the FAA;
 4. Documentation that the power output levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards for power density, whichever provides the stricter requirements.
 5. A statement of the number of collocation sites and documentation regarding structural integrity
 6. A copy of the lease agreement. Such submissions need not disclose financial lease terms.
 7. Documentation consisting of a certificate of insurance showing evidence of general liability coverage of at least \$1,000,000 and the certificate shall contain a requirement that the insurance company notify the city 30 days prior to the cancellation, modification, or failure to renew the insurance coverage required.
 8. Certification from a professional engineer that the structure has been designed to and will withstand 100 miles per hour wind

velocity.

9. Relevant FCC licensing;

10. Name and contact information for applicant as well as any contractors or consultants performing work on behalf of the applicant

11. Application fee.

C. In addition to the requirements listed in subsection B. above, for a new non-qualifying wireless support structure:

1. A written report demonstrating applicants' meaningful efforts to secure shared use of existing wireless support structures. Copies of written requests and responses for shared use shall be provided with the application, along with any letters of rejection stating the reasons for rejection. The applicant shall provide information necessary to determine whether collocation is reasonably feasible. Collocation is not reasonably feasible if it is technically or commercially impractical to locate on an existing wireless support structure or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value.

2. Seismic analysis of the tower, stamped and sealed by a professional engineer or other qualified professional.

3. Delineation of the fall zone for the structure;

4. Simulated photographic evidence of the proposed structure's appearance from all residential areas within 1,500 feet, and from other vantage points chosen by the city.

5. Supplemental information may be required by Section 8.7.4.B.

8.7.5 THIRD PARTY REVIEW

Where due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Administrator may require the applicant to pay for a technical review by a third party expert, the costs of which shall be in addition to other applicable fees. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.

8.7.6 MITIGATION

To qualify as WCF mitigation, a proposal shall accomplish a minimum of one of the following:

A. Reduce the number of overall WCFs;

B. Reduce the number of nonconforming WCF types; or,

C. Replace an existing WCF with a new WCF to improve network functionality resulting in compliance with this section.

8.7.7 APPROVAL AUTHORITY

A. The Administrator shall be responsible for the approval of eligible facilities requests, substantial modifications, concealed attached WCFs, collocations or combining on existing antenna supporting

structures, and non-concealed attached WCFs, and mitigation of existing WCFs.

- B. All freestanding non-qualifying WCFs shall be subject to a special use permit. In addition to the requirements for use permits, the approving authority, in determining whether a non-qualifying WCF is in harmony with the area or the effects and general compatibility of a non-qualifying WCF with adjacent properties may consider the aesthetic effects of the non-qualifying WCF as well as mitigating factors concerning aesthetics. The Planning and Zoning Commission may disapprove an application on the grounds that the non-qualifying WCFs aesthetic effects are unacceptable, or may condition approval on changes in non-qualifying WCF height, design, style, buffers, or other features of the non-qualifying WCF or its surrounding area. Such changes need not result in performance identical to that of the original application. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites, the concentration of non-qualifying WCFs in the proposed area, and whether the height, design, placement or other characteristics of the proposed non-qualifying WCF could be modified to have a less intrusive visual impact. The approving authority, when considering a use permit for freestanding non-qualifying WCFs, shall not be required to make a determination of the electromagnetic field (EMF) effects of the non-qualifying WCF on the health of the public. The documentation required by this section that stipulates that the non-qualifying WCF not exceed the federal limits for power density requirements shall satisfy the applicant's compliance with this required finding. If the approving authority determines that the proposed additional service, coverage, or capacity to be achieved by the location of the proposed non-qualifying WCF can be achieved by use of one or more alternative non-qualifying WCF or by one or more non-qualifying WCFs sited in alternative locations that better serve the stated purposes set forth in this section, it may disapprove the proposed non-qualifying WCF application.

8.7.8 EXEMPTIONS

- A. Satellite earth stations (satellite dishes).
- B. Regular maintenance and/or upgrade of antenna elements of any existing wireless communications facility that does not include the addition of any new antenna elements, feed lines, and associated support equipment on the facility or the placement of any new wireless communications facility.
- C. A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the City, except that such facility must comply with all federal and state

requirements. No wireless communications facility shall be exempt from the provisions of this division section beyond the duration of the state of emergency.

- D. Antenna supporting structures, antennae and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.
- E. Routine maintenance of existing telecommunications facilities, including activities associated with regular and general upkeep of transmission equipment, and the replacement of existing telecommunications facilities with facilities of the same size
- F. Public safety facilities.
- G. Any telecommunications facility below sixty-five (65) feet when measured from ground level which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission and used exclusively for amateur radio operations.
- H. Routine maintenance of small wireless facilities; the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or installation, placement, maintenance, or replacement of micro wireless facilities as defined in N.C.G.S. Chapter 160D, that are suspended on cables strung between existing utility poles or city utility poles in compliance with all applicable laws or regulations by or for a communications service provider authorized to occupy the City rights-of-way and who is remitting taxes under G.S. 105-64.4(a)(4c) or (a)(6).
- I. Any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility, to the extent consistent with applicable codes. This exemption does not apply to a stadium or athletic facility owned or otherwise controlled by the city.

8.7.9 INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS

- A. In order to facilitate the City's regulation, placement, and construction of WCFs and their interaction with the City's Public Safety Communications Equipment, all applicants requesting a permit for a WCF under this section shall agree in a written statement, to the following:
 - 1. Compliance with Good Engineering Practices as defined by the FCC in its Rules and Regulations;
 - 2. Compliance with FCC regulations regarding susceptibility to radio frequency interference (RFI), frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to RFI; and
 - 3. In the case of co-location of telecommunications facilities, the applicant, together with the owner of the site, shall provide a composite analysis of all users of the site to determine that the

applicant's proposed facilities will not cause RFI with the City's Public safety Communications Equipment.

- B. When a specific base station is identified as causing RFI with the City's and the County's Public Safety Communications Equipment, the following steps shall be taken:
 - 1. Upon notification by the City and/or County of interference with Public Safety Communications equipment, the owners of the WCF equipment shall utilize the hierarchy and procedures set forth in the FCC's Wireless Telecommunications Bureau's Best Practices Guide. If the WCF owner fails to cooperate with the City in applying the procedures set forth in the Best Practices Guide in order to eliminate the interference, then the City may take steps to contact the FCC to eliminate the interference.
 - 2. If there is a determination of RFI with the City's Public Safety Communications Equipment, the party which caused the interference shall be responsible for reimbursing the City for all costs associated with ascertaining and resolving the interference, including, but not limited to, any engineering studies obtained by the City and/or County to determine the source of the interference.

8.8 TEMPORARY USES

8.8.1 PURPOSE

The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Development Services Department is required pursuant to Section 8.8 of this Ordinance.

8.8.2 APPROVAL CRITERIA

All temporary uses listed in this Section require a Temporary Use Permit. The Administrator shall not approve or modify and approve an application for a Temporary Use Permit unless the following criteria, specific regulations and time limitations are met in addition to criteria for any particular temporary use as specified below. The following criteria in this Section 8.8.2 shall not apply to Temporary Uses in the Charlotte Motor Speedway Public Interest District (PID), except for (E) Property Line Setbacks.

A. Compatibility With/Effect On Surrounding Area

The allowance of such use shall not be detrimental to the public health, safety and general welfare, and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not

be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.

B. Location (Permission Required)

The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

C. Traffic

The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.

D. Parking and Access

Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

E. Property Line Setbacks

Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street.

In no case shall items be displayed, or business conducted within the public right-of-way.

This sub-section shall not apply to the CC district.

F. Signs

Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. See Article 13 for specific standards for signs.

G. Number Per Parcel

Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time.

H. Period of Time Between Permits

The period of time an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on that same parcel shall be at least three (3) months. This restriction shall not apply to real estate development and constructed related temporary uses.

8.8.3 TEMPORARY RETAIL SALES USES (IN ALL ZONING DISTRICTS)

A. Seasonal Sale of Agricultural Products (including Christmas Trees).

Temporary Use Permits are required for all Roadside Stands in nonresidential zoning districts. Such sales are limited to a period of time not to exceed three (3) consecutive months per calendar year. A maximum of one building/display booth shall be allowed and may cover a maximum of 400 square feet. The structure must be portable and completely removed at the end of the period.

B. Sale or Display of Food, Beverages, or Merchandise

Such activities may be conducted from a stand, motor vehicle, or from a person in a business or commercial zoning district, outside of the public right of way, for a period of not more than twenty-one (21) consecutive days upon issuance of a temporary use permit per vendor. If the private sidewalk or a pedestrian way is used, a minimum width of four (4) feet must remain unobstructed for pedestrian use. A temporary use permit may be renewed once during a calendar year, for a maximum of forty-two days per calendar year

C. Real Estate Development and Construction-Related Temporary Uses

1. Contractors Office and Equipment/Storage Sheds Accessory to a Construction Project (Residential or Non-Residential).
2. Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one year as and if approved by the Administrator. A construction trailer may be used for a contractor's office or for the contractor's storage of equipment or materials. All temporary buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of a Certificate of Occupancy or completion of the construction project, whichever occurs first.
3. Real Estate Office in a Construction Trailer or Temporary Modular Unit
4. Temporary structures, such as construction trailers or temporary modular units may be used as real estate sales offices in any new construction project for the sale of units within that project only. Such a temporary use may be allowed in all zoning districts. The permit shall be valid until the project is completed or for a period of 2 years from the time of the recording of the most recent final plat.
5. Real Estate Office in a Model Home Accessory to Construction of a New Residential Development. Limited to a period of time not to exceed one year with the option of an extension of up to one year as and if approved by the Administrator. The number of employees utilizing the office at any one time may not exceed five (5). A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

D. Single Family Dwelling in Temporary Structure

During the active construction period (after a building or grading permit has been issued) of a construction project involving a nonresidential use or a residential development with building permit(s) for more than 50 units at any one time, one (1) mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Compliance for a non-residential structure or the first residential unit if within a residential development.

8.8.4 NO RECREATIONAL VEHICLES

No bus, slide-in camper, utility trailer, camping trailer, self-contained travel trailer or house trailer (defined as a vehicular, portable structure built on a wheel chassis, designed to be towed by a self-propelled vehicle for use as a temporary dwelling, for travel, recreation and vacation uses, having a body width not to exceed eight (8) feet and a body length not exceeding forty (40) feet when equipped for road travel) shall be used for living, sleeping, or business purposes on any lot within the zoning jurisdiction of the City of Concord, except as provided below.

Camping trailers and self-contained travel trailers may be used as a temporary residence on residentially zoned property for no more than fourteen (14) days in any twelve (12) month period. This provision shall only be used on property where an occupied residence is located.

Camping trailers and self-contained travel trailers may be used as temporary security quarters for 1) Christmas tree sales lots and for 2) nonresidential construction projects greater than five (5) acres, and shall be permissible for the duration of the project/construction.

8.8.5 AMUSEMENT ENTERPRISES

Carnivals, circuses, fairs, and amusement rides may be allowed in any non-residential zoning district for a period not to exceed thirty (30) days within any ninety (90) day period, which shall not include two (2) consecutive thirty (30) day periods. This classification excludes events conducted in a permanent entertainment facility.

8.8.6 RELIGIOUS EVENTS

Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district for a period not to exceed sixty (60) days.

8.8.7 SPECIAL EVENTS AND ACTIVITIES

Special events and activities conducted on public property such as school

sites and public parks or in a Public Interest Development (PID) District shall be exempt from the provisions of this Section of the Ordinance but must comply with any guidelines, regulations and permitting process required by the authorizing agency.

8.8.9 SIMILAR AND COMPATIBLE USES NOT SPECIFIED

If a particular temporary use is listed in the Ordinance, the Administrator shall have the authority to grant a temporary use permit for a “similar and compatible use”. Similar and compatible uses not specified are those uses which are similar and compatible to those allowed as temporary uses in this Section. Determination of what constitutes similar and compatible shall be made by the Administrator. In such instances, the applicant shall provide the following information such as type of use; number of employees; parking/circulation needs/hours of operation; and duration of operation. If the Administrator determines that the use is not similar and compatible, the applicant may appeal the decision to the Board of Adjustment in accordance with Article 6 of this Ordinance.

8.9. SPECIAL REGULATIONS FOR ELIGIBLE FACILITIES REQUESTS AND COLLOCATIONS QUALIFYING WIRELESS COMMUNICATIONS FACILITIES; ACCESS TO CITY RIGHT OF WAY; ACCESS TO CITY EQUIPMENT

8.9.1 ELIGIBLE FACILITIES REQUESTS.

Collocation and eligible facilities requests, as defined in G.S. 160D-931 or 47 U.S.C. 1455, shall be processed in accordance with G.S.160D-933, and/or federal laws and regulations as appropriate. In approving any eligible facilities request, the City solely intends to comply with a requirement of federal law or state law and not to grant any property rights or interests except as compelled by federal or state law. Without limitation, approval does not exempt applicant from, or prevent City from, opposing a proposed modification that is subject to complaint under the National Historic Preservation Act or the National Environmental Policy Act. Collocations are only permitted as provided in CDO Section 8.7 and as detailed in G.S. 160D-935.

8.9.2. COLLOCATION OF QUALIFYING SMALL WIRELESS FACILITIES

- A. A Qualifying Small Wireless Facility shall mean, for the purposes of this section, a Small Wireless Facility, as defined in G.S. 160D-931, that meets the height requirements of 160D-936 and Section 8.9.3
- B. Qualifying Small Wireless Facilities are subject to administrative review if collocated (i) in a city right-of-way within any zoning district or (ii) outside the city rights of way on property other than single family residential. Qualifying Small Wireless Facilities are generally subject to the requirements of 8.7 and 8.7.4.
- C. Qualifying Small Wireless Facilities shall only be subject to administrative review and shall not be subject to the Siting Requirements of 8.7.2 A. through D. Applications for Qualifying Small Wireless Facilities shall include an attestation that the small wireless facilities shall be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- D. The City shall process Qualifying Small Wireless Facility applications in accordance with the time frames and requirements set forth in G.S. 160D-930 through 160D-938.
- E. Collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- F. Applications for Qualifying Small Wireless Facilities shall be subject to

a fee as set forth in the City's Adopted Fees, Rates and Charges schedule, provided that such fee shall be in compliance with G.S. 160D-933(d). Applications may be subject to a technical consulting fee, provided that such fee shall be in compliance with G.S. 160D-933(d).

- G. An abandoned small wireless facility shall be removed within 180 days of abandonment.

8.9.3 Small Wireless Facilities Standards.

Small Wireless Facilities shall meet the following standards:

- A. To protect the unique aesthetics of the City, to minimize new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna supporting structures, the City prefers that small wireless facilities be located outside the public right-of-way; collocated on existing non-city utility poles or wireless support structures; concealed; and have their accessory equipment mounted on the utility pole or wireless support structure. These preferences are intended as guidance for development of an application for small wireless facilities.
- B. Small wireless facilities shall cause no signal or frequency interference with public safety facilities or traffic control devices and shall not physically interfere with other attachments that may be located on the existing pole or structure.
- C. No portion of a small wireless facility, to include a utility pole or city utility pole associated with a small wireless facility, may be placed in the public right-of-way in a manner that: a. Obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference; or b. Involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than eight (8) feet above ground level.
- D. An abandoned small wireless facility shall be removed within one hundred eighty (180) days of abandonment.
- E. Small wireless facilities located in designated historic districts or on property designated as a historic landmark shall be required to obtain a Certificate of Appropriateness.
- F. Small wireless facilities, and associated utility poles or city utility poles, shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Small wireless facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the

community.

- G. All small wireless facilities shall be stealth facilities. Antenna and accessory equipment must be shrouded or otherwise concealed. All radios, network equipment, and batteries will be enclosed in a pedestal cabinet near the pole, or in a pole-mounted cabinet, or under a pole-mounted shroud.
- H. The top of a qualifying WCF shall not be more than 10 feet above the building, utility pole, city utility pole, or wireless support structure on which it is collocated.
- I. Utility poles and city utility poles associated with small wireless facilities: Each modified or replacement utility pole or city utility pole shall not exceed (i) forty (40) feet above ground level on property zoned for or used as single family residential property, or in the right-of-way adjacent to such property, where existing utilities are installed underground, unless a variance is granted; or fifty (50) feet above ground level on all other property.
- J. Where a new pole must be installed to support a small wireless facility in a city right of way, these additional standards apply:
 - 1. Wireless installations shall be on poles that meet or exceed current NESC standards and wind and ice loading requirements of ANSI 222 Version G.
 - 2. Wireless installations shall be on non-conductive poles.
 - 3. Cabinets should be consistent in size and no larger than standard DOT streetlight signal cabinets.
 - 4. Any new poles installed shall be on an inert material, so as not to rust or corrode and not leach any compounds or toxic substances into the ground.

8.9.4. ACCESS TO CITY RIGHT OF WAY

- A. Subject to GS 160D-936 and other applicable requirements, wireless providers may collocate small wireless facilities along, across, upon, or under any City right of way. Subject to GS 160D-936 and 160D-937, and other applicable requirements, wireless providers may place, maintain, modify, operate, or replace associated utility poles, city utility poles (to the extent required by law), conduit, cable, or related appurtenances and facilities along, across, upon, and under any City right of way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of Qualifying Small Wireless Facilities shall be subject to the review process outlined in Section 8.9.2 or 8.9.3 as applicable; however the City may require additional information to evaluate loading on city utility poles, evaluate the credentials of contractors working on city utility poles, and ensure that proposed replacement poles are consistent and compatible with other city utility poles in the area. If replacement of a city utility pole is necessary to

accommodate a small wireless facility, all costs shall be borne by the applicant.

- B. A Wireless Provider may apply to place utility poles in the City rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of way, to support the collocation of small wireless facilities. Such applications shall be processed in accordance with Section 8.9.3. Proposals for new utility poles may also be evaluated for separation from existing poles in accordance with city policies and procedures.
- C. The City of Concord is an excluded entity as defined under NCGS 160D-937(f). Nothing in the section shall be construed to require that the City approve collocations on city utility poles or electric poles, and such collocations shall not be permitted except in accordance with City code and policy including, without limitation, the City of Concord Technical Standards Manual.
- D. Applicants for access to City Rights of Way shall comply with policies and procedures for encroachments in City rights of way, including applicable undergrounding procedures.

8.9.5. ACCESS TO CITY UTILITY POLES, CITY-OWNED ELECTRIC POLES, AND OTHER CITY OWNED EQUIPMENT

- A. Nothing herein shall be construed to require that the City provide access to City-owned utility poles, city-owned electric poles, or other City owned equipment except in accordance with City code, City policy, and applicable safety requirements, including without limitation, the City of Concord Technical Standards Manual.

ARTICLE 9

SPECIAL PURPOSE AND OVERLAY DISTRICTS

Summary: This Article provides information on special purpose zoning districts in the City of Concord including Planned Unit Development, Planned Residential Development, Mixed Use Districts, Traditional Neighborhood Districts, Manufactured Home Park District, Public Interest District, Conservation Subdivision, Residential County Originated and Neighborhood Infill Residential. It also includes information on the overlay districts of the Historic Preservation, Airport, Manufactured Home Park, and the Copperfield Boulevard Corridor Overlay District.

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For the Watershed Overlay Districts - See Article 4. There are three water related overlay districts. The water shed around the Coddle Creek Reservoir (Lake Howell) and Coddle Creek is a WS II watershed, and is discussed at section 4.2. The watershed around Lake Concord is a WS IV watershed and can also be found at section 4.2. All of the rest of Concord is located in the watersheds controlled by the National Pollution Discharge Elimination System Phase II Stormwater Permit issued by the State of North Carolina. Sections 4.3 through 4.7 contain the standards for the balance of Concord outside of the Coddle Creek and Lake Concord watersheds.

ARTICLE 9 SPECIAL PURPOSE DISTRICTS

9.1 PLANNED UNIT DEVELOPMENT (PUD)

9.1.1 Purpose

The purpose of the Planned Unit Development district (PUD) is to provide for the orderly development of land with a mix of land uses and intensities. PUD zoning is intended to permit innovation and flexibility in the design, construction and processing of mixed-use developments in exchange for the developer providing enhanced design elements that exceed CDO requirements. While the conventional zoning districts and the requirements of those districts set forth in the CDO are reasonable in most cases, there are parcels of land that are more appropriate to be developed with a mixed-use zoning district. Furthermore, there may be circumstances in which it is in the community's best interest to allow unique and/or creative designs and techniques that:

- A. promote the most appropriate use of a parcel,
- B. allow diversification of use,
- C. facilitate the adequate and economical provision of streets, parks, open space, schools, storm drainage and sewer and water utilities
- D. incorporate transit access, amenities and/or connectivity,
- E. preserve and utilize open space, tree cover, topography and significant natural features,
- F. offer recreational opportunities close to residential uses,
- G. create physically integrated and interconnected neighborhoods that provide safe cross-access for vehicles, bicycles and pedestrians, and
- H. enhance neighborhood appearance/design.

9.1.2 Processing Procedures and Submission Requirements

A PUD shall be processed as a conditional district zoning map amendment (rezoning) as a special purpose zoning district and shall follow the process outlined in § 3.2.8.

Prior to submission of an application, the Development Review Committee shall conduct a pre-application meeting with the applicant. Because the PUD is intended to be utilized for innovative and creative design, it is understood that flexibility from certain requirements may be warranted. The purpose of the meeting is to review the proposed development, and to determine the applicable methodology, level of flexibility and standards upon which the development will be reviewed.

Innovative and creative designs will be evaluated with elements contained in the context of other mixed-use zoning regulations (see Sections 9.3 and 9.4) and not just as a means of increasing density or modifying dimensional standards. A high level of connectivity is expected of PUDs and physical barriers, such as fences that are not for screening, will not be permitted.

Each application for a PUD shall include a written narrative explaining why approval of the PUD is in the community's best interest, why it cannot be developed through the conventional zoning process, and how the proposed project complies with 9.1.1 A-G above. The narrative shall also provide justification for any modification from minimum standard or requirement.

The application shall also include a scaled site plan or plans, illustrating the location and extent of all structures, both residential and commercial and uses as required in 3.2.8. The plan shall be designed in accordance with Section 5.4.3 and shall include sufficient engineering data to ensure that the project is achievable in the manner proposed. Such engineering data shall include proposed street cross-sections, stormwater improvement details and utility service information. If the proposed PUD is a multi-phase development, each phase shall be clearly indicated, with site data included for each phase and for the overall project. The design of future phases in a more conceptual basis for projects with longer anticipated buildouts may be considered on a case-by-case basis provided that engineering data is sufficient to ensure that the future phase of the project can be developed in a manner consistent with the initial phase or phases. In the event that it is determined, after approval of the initial phases that these future phases are not consistent, a modification of the approved zoning shall be required.

The plans shall include the size, type and maximum height of all proposed structures. The plans shall also specify minimum setbacks for structures and minimum dimensional specifications for each proposed use and the type of landscaping buffers separating the uses. The application shall also include architectural renderings of all proposed nonresidential structures (with building type construction) and all residential structures with the exception of single-family residences. The site plan and application shall also indicate the location, size and type of all proposed signage. A maintenance plan for all spaces in common ownership shall be provided.

9.1.3 Land Use Composition and Permitted Uses A PUD district is considered a mixed-use district and is required to have at least two distinct land uses. PUD districts that are completely residential are not permissible (see the Planned Residential District for mixed residential zoning).

The proposed PUD shall:

- A. contain at least two (2) distinct land uses and, if not within a single building, shall contain two (2) distinct building types;
- B. designate at least 15% of either the land or floor area as nonresidential uses within the first phase of the project (if the project consists of multiple phases). The nonresidential use shall be complete before approval of the permits for the next phase. Article 8 shall be used for guidance for the determination of nonresidential uses; and
- C. be compliant with the densities specified in the 2030 Land Use Plan, except as provided in 9.1.5.B.

9.1.4 Minimum Land Area

- A.** No minimum land area is required for rezoning to a PUD district.

9.1.5 Design Standard Flexibility

- B.** The proposed PUD shall generally meet dimensional requirements of the Ordinance and the Technical Standards Manual (TSM). However, minor modifications of some non-safety related dimensional standards may be considered where appropriate. The PUD may provide for flexibility in the development of the site and the applicant shall clearly demonstrate that the requested modifications will result in a more innovative design and will be in the community's best interest. These modifications may be considered provided that the project contains enhanced design elements as specified in 9.1.9.F. All requested modifications shall be clearly stated within the application narrative and labeled on the proposed site plan. All dimensional and minimum standards shall be adhered to unless specifically listed as a modification within the narrative and on the site plan.
- C.** All densities shall comply with the maximums specified in the applicable land use designation of the 2030 Land Use Plan, except that residences on the upper floors of nonresidential structures shall be exempt from the maximum density limits.
- D.** Unless otherwise requested as deviations, minimum dimensional requirements for residential uses shall comply with Residential Compact (RC) minimum requirements and commercial uses shall comply with the General Commercial (C-2) minimum requirements.
- E.** A 25-foot-wide Type D buffer shall be maintained around the exterior of the development. In the instances of a PUD district that is an infill project, or when the project lies within a Village Center or a Mixed-Use Activity Center as indicated in the 2030 Land Plan, the buffer may be modified. This modification shall be considered based upon the characteristics of adjacent roadways or adjacent land uses, but in no instances may be less than an 8-foot-wide Type A perimeter buffer. The applicant shall clearly demonstrate that any deviation from the perimeter buffer will result in a more innovative design and will be in the community's best interest. This buffer shall not be counted as part of the required minimum open space for the development, the buffer shall not be located within the lot area of any individual building lot, and no encroachments are permissible within the buffer.
- F.** Buffers between individual uses in the proposed PUD shall be provided, and dimensions shall be clearly labeled on the site plan.
- G.** In no instances are modifications allowed to State or Federally mandated standards such as Stormwater requirements, Floodplain protection requirements, Building Code, minimum Fire Code requirements or North Carolina Department of Transportation (NCDOT) or City of Concord minimum safety standards.

9.1.6 Professional Design Team Required

An applicant for a PUD approval shall certify, in writing at the time of application, that a member of one or more of the following professions was used in the planning and design process for the proposed development:

- A. Project planning and design by a licensed North Carolina architect, licensed North Carolina landscape architect or planner certified by the American Institute of Certified Planners (AICP);
- B. Landscaping design by a licensed North Carolina landscape architect; and,
- C. Site engineering by a North Carolina Registered Engineer.

9.1.7 Modification of Approved Final Master Plan

Modification of the approved master plan is permissible in accordance with § 3.2.8.

9.1.8 Sign Standards

Sign standards for a PUD district shall be governed either by a comprehensive sign package as detailed in Article 12 or through sign standards approved with the PUD district. In no instance may a PUD district be requested solely for the modification of a sign standard.

9.1.9 Design Principles

As indicated in § 9.1.1, PUD zoning is intended to permit flexibility in the design, construction and processing of residential, commercial, office and/or industrial developments of a quality that could not be achieved under conventional zoning concepts. However, certain minimal design standards shall apply and the zoning application for each project will be reviewed considering the below items.

- A. When Thirty (30) or more residential units are proposed, the project shall include a variety of housing stock that serves a range of incomes and age groups. Examples may include attached and detached single family, multifamily and dwelling units above commercial. The variety may include differing sizes of the same housing type, such as a mixture of larger and smaller lot sizes to accommodate a variety of single-family home designs.
- B. Uses are compact and well- integrated as opposed to widely separated and buffered.
- C. The project is well integrated into established adjacent areas relative to existing development standards, scale and use, with compatibility being achieved through effective architectural design and site planning.
- D. Open space is a significant element of the project's design. These open spaces shall include active and passive open space with an emphasis on accessible trails and connections to both existing and proposed greenways. The City's Open Space and Connectivity Analysis (OSCA) and other adopted plans shall be consulted for further guidance. All open space shall be specifically labeled and defined on the submitted site plan to include uses and aesthetic design. Additionally, all open spaces shall be accessible by a street, sidewalk, greenway or trail. While environmentally sensitive areas

(floodplains, wetlands, etc.) may be within the minimum open space, at least 50% of the open space shall be upland area (non-environmentally sensitive). At least twenty-five percent (25%) of the overall gross land area of the site shall be designated as open space and thirty percent (30%) of the required open space on the site shall consist of active open space, except that this requirement may be modified in the event that the applicant demonstrates that the project is “infill” and is located adjacent to a sidewalk or trail network and is within walkable distance of active open space. Areas designated as “tree save” pursuant to Article 10 shall be considered active open space for the purposes of this section.

- E. The proposed development includes a variety of interconnected street types that are accessible to pedestrian, bicycle and automobile, and residential and non-residential areas shall be connected for both vehicles and pedestrians. The street pattern shall be designed in such a way as to encourage walking and to reduce the number and length of automobile trips. Bicycle lanes shall be provided along at least seventy percent (70%) of all collector streets.
- F. Enhanced design elements may include, but are not limited to
 - a. Increased open space and unique open space designs;
 - b. preservation of heritage trees and significant native tree canopy;
 - c. establishment of habitat preservation measures and/or wildlife sanctuary areas; and
 - d. use of native plants and pollinator gardens within the site.See Sections 9.3 and 9.4 for enhanced design elements that may be utilized in PUD zoning districts.
- G. The project includes building types that delineate the streets and civic/nonresidential areas to minimize the visibility of parking lots. See Sections 9.3 and 9.4 for designs that accomplish this principle.
- H. Grading and clearing shall be minimized to the extent possible and the natural topography should be integrated into the site design and amenities.
- I. Low Impact Development (LID) stormwater facilities shall be used and integrated into the development. At least twenty five percent (25%) of the stormwater generated by the development shall be addressed by LID measures as specified in Section 9.11. When larger, stand-alone stormwater ponds and basins are proposed, they shall be designed and constructed as amenities.
- J. The proposed development shall provide for both current and future transit needs.

9.2 PLANNED RESIDENTIAL DEVELOPMENT (PRD)

9.2.1 Purpose

The purpose of the Planned Residential Development District (PRD) is to permit flexibility in the design, construction, and processing of residential developments to a quality that could not be achieved under conventional zoning approaches. Specifically, a PRD is designed to:

- A.** Advance the goals of the Comprehensive Plan;
- B.** Permit greater flexibility in terms of lots size and housing type;
- C.** To best utilize the physical features of the site;
- D.** Encourage the provision and preservation of accessible open space;
- E.** Protect significant environmental features such as (but not limited to) streams, wetlands, rare plant species, large trees, and wildlife habitat;
- F.** Encourage the assembly of multiple parcels of land into one large parcel for the purpose of applying a PRD. The adopted land use plan or any adopted small area plan shall be consulted in order to determine the most appropriate design and housing product mix.

9.2.2 General Requirements

PRD projects shall be evaluated with respect to the following:

- A.** The project is developed to an equal or higher standard than otherwise required by the strict application of district regulations that would otherwise govern; and
- B.** The project shows an innovative arrangement of buildings and open spaces that provide efficient, attractive, flexible, and environmentally sensitive design; and
- C.** The project produces a development that functions as a cohesive, unified project; and
- D.** The project does not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with adopted plans and policies of the City.

9.2.3 Minimum Standards

The Planned Development Residential (PRD) subdivision projects shall adhere to the following minimal standards.

A. Minimum Size

A PRD district shall be a minimum of three (3) acres in area. The Administrator may waive this minimum area requirement based on a finding that creative site planning through rezoning to a PRD district is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development or

subdivision would be difficult or undesirable given the constraints on development.

B. Product Mix Described

The PRD is designed to encourage a mixture of housing product. Developer's choosing to use the PRD option shall provide a technical data sheet that clearly indicates the number of units or lot sizes within each area of the development. For the purposes of this Section, a housing product shall include:

1. Any one from Figure 7.7-9 in Article 7
2. Single Family Detached structures with various lot sizes
3. Structures with more than 3 dwelling units
4. Congregate Care Home
5. Retirement Home

C. Lot Size Reduction Bonus

For single-family detached portions of the development, lot sizes may be reduced in exchange for open space at the following rate. One (1) square foot of lot for one (1) square foot of open space. Lots may not be reduced to less than 4,500 square feet and the frontage may not be less than 50 feet. All perimeter lots shall be at least 70 feet in width, or designed to be the same dimension as lots on adjacent parcels, whichever is less. If the perimeter lots are designed at 70 feet, they may be used to satisfy the 10% requirement outlined in 9.2.3 E., Lot Size Option below. In no case shall the allowable density of the underlying zoning be increased. All created lots shall conform to the standards outlined in Article 5.5 Lot Design Standards.

D. Product Mix Options

The premise behind the PRD is to provide a variety of housing sizes, types, styles, or products in a development. In order to achieve this the developer may choose one of the following options.

E. Lot Size Option

No single lot size shall comprise more than 60% of the lots in the development. This option does not allow an increase in the density of the underlying zoning district. Lot size variations must be in increments of 5 feet. No lot may be less than 50 feet in width and at least 10% of the development shall have lots 70 feet wide or greater.

Below is an example calculation:

Total lots proposed in the development: 200

70' wide lots required (10%): 20

60' wide lots proposed (60%): 120

50' wide lots proposed (30%): 60

F. Dwelling Unit Type Option

As an alternative to lot size, a developer may choose different housing types. This option does not allow an increase in the density of the underlying zoning district. Similar to the lot size option, no single type shall comprise more than 60% of the dwelling unit types in the development . The adopted Land Use Plan shall be consulted to determine the most appropriate housing type product and how it fits into the character of the area. All supplemental standards found in Articles 7 and 8 shall apply.

G. Small Parcel Allowance

For parcels that are between 3 and 5 acres in size one or two different housing types may be used, so long as the project is meeting the other design requirements of this Article 9.2

9.2.4 Design Standards

In addition to other requirements of this CDO, developments with single-family dwellings and buildings containing more than one dwelling unit shall incorporate the following design features.

A. Recreation

At least seventy percent (70%) of all residential units shall be located no further than 660 feet from a pedestrian (excluding sidewalks), equestrian or bicycle trail measured from the boundary of the lot. Recreation and open space facilities shall be aligned with the community parks and open space network, as provided in any locally adopted land use plans or parks and recreation master plans. For infill PUD's the Administrator may consider other elements, such as sidewalks, in order to meet this requirement.

B. Multi-Modal Requirements

Bicycle lanes shall be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.

C. Development Entrances

Customized entrances shall be provided at all streets intersecting a thoroughfare or collector. Such locations may include a waterfall, sculpture, monument signage, special landscaping, specialty pavement, enhanced fence or wall details, boulevard median or other similar treatment. The extent of such features shall match the scale of the proposed development (more significant features shall be required for larger developments).

D. Preservation of Tree Cover

At least one third (1/3) of the tree canopy shall be protected for property covered with forest. Existing tree locations shall be clearly marked on the master plan.

9.2.5. Landscaping and Buffering Requirements

Class “C” Buffer yards are required around the development in accordance with Article 11 (current Article 9) with the following exceptions.

- A. A Class “B” buffer may be used if the rear yard setback of the adjoining developed residential parcels is matched.
- B. All perimeter buffer yards shall contain at least 60% evergreen plant material that reaches a mature height of no less than 6 feet. The Administrator may modify this requirement in situations where additional screening may be warranted.
- C. Buffer yards shall be designated as undisturbed, conservation easements, or common open space on a subdivision plat and may be used in calculating the required common open space.
- D. The use of existing vegetation to meet the requirements will be judged based on field observation by the Administrator.
- E. Except in active recreation areas, existing healthy trees over twelve (12) inches in diameter in the common open space shall be preserved. The use of temporary fencing shall be employed to protect such trees during site development. The Manual shall be consulted for proper tree protection fencing practices.

9.2.6 Professional Design Team Required

Project planning and design shall be prepared by a licensed North Carolina architect, licensed North Carolina Landscape Architect, or Planner certified by the American Institute of Certified Planners (AICP), or a registered land surveyor; Landscaping design by a certified nurseryman or licensed North Carolina Landscape Architect; and, site engineering by a North Carolina Registered Engineer.

9.2.7 Approval Procedure

A PRD shall be processed as a Conditional District as set forth in Article 3.3. A set of Restrictive Covenants and Design Codes shall be established for each PRD by the Developer and shall be binding on all property owners after review and approval by the City in consultation with its attorneys.

9.2.8 Zoning Map Designation

Upon approval of a PRD, the zoning map shall denote the letters PRD followed by zoning case number.

9.3 MIXED USE DISTRICTS.

9.3.1. PURPOSE

The primary purpose of the Mixed Use Districts is to promote and protect public health safety, and general welfare. The goals of this ordinance include:

- A. Promote the best use of the land and buildings in accordance with the Comprehensive Plan
- B. Create a pedestrian scale urban environment with that support multiple modes of transportation
- C. Integrate a mix of uses
- D. Provide a variety of housing opportunities.

Mixed use zoning shall consider all future adopted small area plans.

9.3.2. MIXED USE DISTRICTS

Four districts specifically tailored for mixed use development are established under this Section.

- A. **MX-NC - Mixed Use-Neighborhood Center**
- B. **MX-CC1 - Mixed Use-Commercial Center Small**
- C. **MX-CC2 - Mixed Use-Commercial Center Large**
- D. **MX-IB - Mixed Use Industrial/Business Center**

MX-NC - Mixed Use-Neighborhood Center District

Summary

- A. Location: Adjacent to collector/arterial, collector/local, collector/collector street intersection (Figure 9.3-1) that encourages daily activity patterns for nearby residents
- B. Size: 10 Acres or smaller
- C. Building footprint: 50,000 SF max.; 25,000 SF for anchor tenant; 5,000 SF max. subsequent tenants.
- D. Building Height: 50% shall be 2-story or greater
- E. Uses: Residential, accessory, and small business uses as permitted by Article 8.



Figure 9.3-2
Neighborhood center examples

Mixed Use Neighborhood centers are small walkable communities with ample amenities (Figure 9.3-2) that directly serve adjacent neighborhoods.

Auto-related uses or other uses that produce noxious fumes or excessive light and noise are prohibited within a neighborhood center (See Table 8.1.8). Single-family lots exceeding 10,000 SF are prohibited. Open Space is required and shall comply with Article 11.



Figure 9.3-1
Neighborhood center corner as part of the Roberta Church Road/US-29 Small Area Plan

MX-CC1- Mixed Use-Commercial Center Small District

Summary

- A. Location: Adjacent to the intersection of a collector/arterial or arterial/highway intersection.
- B. Size: 10-30 acres
- C. Building footprint: based on permitted uses
- D. Max Tenant Size in Multiple Tenant Building: 8,500 SF
- E. Building Height: 50% shall be 2-story or greater
- F. Uses: Residential and commercial businesses as permitted by Table 8.6-1.

This district shall permit a wider range of commercial uses as compared to the MX-NC district and public facilities allowed by Table 8.1.8. The district shall have a residential component.

MX-CC1 districts shall balance automobile access from arterial and collector streets with transit orientation, pedestrian and bicycle access and circulation, and provide good vehicle and pedestrian connectivity to surrounding residential areas. These districts shall be located in areas that serve multiple neighborhoods with access from arterial and collector streets.

Depending upon their size, aging, single, limited-use local commercial centers and “greyfield” corridors are candidates for the MX-CC1 district.



Figure 9.3.-3
Commercial center corner as part of the Roberta Church Road/US-29 Small Area Plan

MX-CC2- Mixed Use-Commercial Center Large District

Summary

- A. Location: Intersection of a collector/arterial or arterial/highway intersection.
- B. Size: Greater than 30 acres
- C. Building footprint: based on permitted uses.
- D. Building Height: 50% shall be 2-story or greater

E. Uses: Residential and commercial businesses as permitted by Table 8.1.8.

This district shall permit a wider range of commercial uses as compared to the MX-CC1 district and public facilities allowed by Table 8.1.8. The district shall have a residential component.

Example uses in this district may include large-scale retail uses that provide major durable goods shopping, restaurants and services to multiple residential areas. A variety of integrated uses should be provided, including concentrated office, research and development, medical, institutional, and civic uses.

Depending upon their size aging, single, limited-use local commercial centers and “greyfield” corridors are candidates for the MX-CC2 district.

MX- IB - Mixed Use-Industrial/Business Center District

MX-IB - Summary

- A. Location: Adjacent to two arterial streets or within a ¼ mile limited access freeways and highways.
- B. Size: Greater than 30 Acres
- C. Building footprint: based on permitted uses.
- D. Uses: Residential, commercial, and industrial uses as permitted by Table 8.1.8.

This district shall permit higher intensity uses than those described for MX-CC1 and MX-CC2 districts with a residential component. Examples uses may include corporate headquarters, class “A” office spaces, research and development, some warehousing and light industrial, and major educational facilities.



Figure 9.3-4
Regional employment center and supporting activity as part of the Roberta Church Road/US-29 Small Area Plan Concept

The MX-IB is the largest of the mixed use districts and is designed to accommodate the development of major employment, business, or light industrial facilities (Figures 9.3-4 and 9.1-5). This district is intended for large, higher intensity activity centers that combine the uses of commercial, business, and industrial centers with a residential component that and serve the city and region as a whole.



Figure 9.3-5
Corporate Office Example

9.3.3. PERMITTED, CONDITIONAL, AND ACCESSORY USES

Table 8.1.8 specifies allowed uses in MX zone districts. If a listed use is not marked in a particular zone district, it is prohibited in such zone unless otherwise allowed through a zoning map amendment (rezoning).

9.3.4. MIXED USE CONCEPT PLAN

Establishing a MX zone district begins with a concept plan. The concept plan shall describe and illustrate, in written and graphic formats, the intended locations and quantities of proposed uses, the layout of proposed vehicle and pedestrian access and circulation systems, provision of transit facilities, and areas designated to meet requirements for open space, parking, on-site amenities, utilities and landscaping. It shall include statements or conceptual plans describing how signage and lighting will be designed in a unified and integrated manner on site. In addition, the concept plan shall indicate how the proposed uses will relate to the surrounding properties. The submittal of a concept statement in lieu of a concept plan is not permitted. The requirement for a concept plan is waived if a complete development plan, which includes a request for rezoning (a zoning map amendment), is submitted for the entire zone district.

9.3.5. CONCEPT PLAN AMENDMENTS

The following review criteria shall apply to MX zone concept plan amendments. A mixed use concept plan amendment shall be submitted when:

- A. There is a proposed change in the general location of an approved principal use, or
- B. There is a proposed change in the amount, type or density of residential uses, or
- C. There is a proposed change in pedestrian or vehicular circulation systems, right-of-ways, utility corridors or easements; or
- D. There is a proposed change of use that would change the location or amount of required parking; or
- E. There is a proposed change in uses that would change trip generation calculations greater than 10%; or
- F. There is a proposed change to an existing phasing plan.

A MX concept plan amendment request shall include maps of the entire MX zone district, and shall update all development information in written and graphic format since adoption of the MU concept plan or the most recent amendment.

9.3.6. EXPIRATION OF THE CONCEPT PLAN

A concept plan shall expire under any of the following circumstances:

- A. Six (6) years have occurred since approval of the concept plan and no development plan that implements the concept plan has been approved; or
- B. Six (6) years have occurred since approval of a development plan that implements the concept plan.

- C. Extension of a concept plan; A one (1) year extension may be issued by the Administrator, provided that a written request has been received prior to the expiration of the concept plan, and the Administrator determines that no major changes in the city's development standards, or changes in the development pattern of the surrounding properties has occurred.

9.3.7. PHASING PLAN

An application to establish an MX zone district shall include a phasing plan that describes and illustrates, in written and graphic format, implementation of the concept plan and when development is anticipated over the life of the project. A phasing plan shall be a working document used to identify the sequence, timing and responsibility for construction of necessary utilities and infrastructure. The requirement for a phasing plan is waived if a complete development plan for the entire zone district is submitted. The phasing plan shall show the phasing of principal uses, transition tools, pedestrian improvements, streets, utilities, drainage improvements, building areas, parking, and interim uses. It shall relate the development phases to infrastructure requirements for each phase. If a phased project proposes a disproportionate share of the mix of uses, open space, landscaping, recreational facilities or other common amenities to future phases, assurances are required so that if the future phases are not developed, a sufficient mix of uses, open space, landscaping, recreational facilities or common amenities shall be provided for the phases actually developed.

- A. Assurances shall be in the form of a letter of credit, escrow payment, surety bond or recorded agreement by the mortgage holder, or if none, by the property owner guaranteeing the development of common amenities, in form and content acceptable to the Administrator after review by the City Attorney.
- B. Assurances shall be submitted before a phasing plan for the mixed use zone district is approved.
- C. Finally, an amendment to a phasing plan shall be processed as an amendment to a concept plan.

9.3.8. SITE DEVELOPMENT PLAN

Before building permits may be issued in an MX zone district, a site development plan that implements the approved concept plan, if any, and appropriate MX zoning must be approved. Diversification of ownership shall not be considered a valid basis or justification for an amendment to a previously approved development plan. All development in MX zone district shall be in conformance with the approved development plan.

9.3.9. DEVELOPMENT AND REVIEW CRITERIA

A concept plan is required prior to any development within a MX zone district (see §9.4.) Other than approval of a concept plan, development within an MX zone district shall follow the procedures outlined in Articles 5 and 6 of the Zoning Ordinance In addition, the following review criteria shall apply to mixed use zones.

General

- A. The proposed MX concept plan is consistent with the Comprehensive Plan and all applicable elements of the Comprehensive Plan.
- B. The proposed MX concept plan is consistent with any City-approved master or small area plan(s) that apply to the site.

Mix of Uses

- A. The mix and location of principal uses is consistent with the intent and standards of the applicable mixed use zone district.
- B. The residential use is well integrated with other uses, and the proposed housing types and densities assure activities that support the mix of uses in the development.
- C. The open space serves as an amenity that supports walking and bicycling.
- D. Build-to lines established along perimeter streets are located in such a way as to support a pedestrian-oriented streetscape.

Access and Circulation Systems

- A. Vehicular and pedestrian ways provide logical and convenient connections between proposed uses, and to existing or proposed uses located adjacent to the proposed MX center, and establish a high level of connectivity.
- B. The hierarchy of perimeter and internal streets should disperse development-generated vehicular traffic to a variety of access points, discourage through traffic in adjacent residential neighborhoods, and provide neighborhood access to onsite uses.
- C. Existing or proposed transit routes should be incorporated into the MX center through the location of appropriate transit facilities, and related pedestrian improvements.

Parking

- A. Automobile and bicycle parking areas are located in such a way as to support principal uses, minimize potential negative impacts on adjacent properties, discourage an exclusive automobile orientation and provide a safe environment for pedestrians, motorists, cyclists and transit users.

General Utility Infrastructure

- A. The general utility layout, proposed right-of-ways, utility corridors and easements show appropriate points of connection for water, wastewater, natural gas, electric and telecommunication utilities.
- B. The capacity, age and condition of utility infrastructure shall be sufficient to meet the needs of the MX center at build-out, and if not, then proper relocation, replacement or other modifications shall be shown.
- C. The general location and type of on-site amenities and landscaping provides desirable open space, creates an inviting image, enhances the pedestrian environment and offers spaces for people to gather, interact, and rest.
- D. Landscaping that relates to individual streetscapes, internal parking lot landscaping and buffers and contributes ecologically and aesthetically

to the character of the MX center and supports a pedestrian-friendly environment.

- E. Areas of unique or significant natural features are integrated into the MX development.
- F. Signage and lighting systems unify the development and are compatible with and complement surrounding neighborhoods.
- G. Signage themes designed in such a way so as to unify the MX center.
- H. The proposed transitions shall ease the progression from more intense to less intense land uses.
- I. Building masses mitigate visual impact for uses or activities that could be reasonably regarded as nuisances by neighbors.

9.3.10. INCENTIVES

Incentives are provided in the mixed use zoning districts to encourage and facilitate creative development. The following items summarize the incentives:

1. Greater flexibility allowed in the design as opposed to single use zoning requirements.
2. A greater number and variety of uses allowed in the mixed use districts versus in the other base zone districts.
3. Modifications of certain standards that reflect less demand in mixed use projects, such as off-street parking requirements.
4. An applicant may propose alternative compliance to the strict application of design standards, such that the alternative:
 - A. Achieves the intent of the subject design standard to the same or better degree than the subject standard;
 - B. Achieves the mixed use goals and policies in the comprehensive plan to the same or better degree than the subject standard; and
 - C. Results in equivalent or better benefits to the community than compliance with the subject design
 - D. Standard features which may be substituted or modified to achieve alternative compliance include but are not limited to:
 1. Pedestrian walkways through parking lots; §9.3.14.15.
 2. Pedestrian pass-through requirement, §9.3.14.13.
Maximum block length requirements, §9.3.14.2.
 3. Alternative site layout and building orientation, §9.3.14.4.
 4. For infill development and redevelopment sites bordered by developed land along at least 50% of the perimeter of the tract, consideration may be given for offsite features that are equivalent in function in order to meet the use requirements of the MX district.
 5. The procedures and criteria for alternative compliance are presented in Section 9.3.11.

9.3.11. ALTERNATIVE COMPLIANCE, DESCRIPTION AND PROCEDURE

Alternative compliance is a procedure that allows development to occur where the intent of the Zoning Code and the design standards for mixed use are met through an alternative design. It is not a general waiver of regulations, but rather permits a site-specific plan to

incorporate an alternative design equal to or better than the strict application of the design standards covered under this ordinance. If a concept plan or development plan is to include a request for approval of alternative compliance, a pre-submittal conference with the administrator is required. Applications for concept plans or development plans shall include sufficient explanation and justification, in both written and graphic forms, for the alternative compliance requested. A request for approval of alternative compliance may include proposed alternatives to one or more design standards.

To grant a request for alternative compliance the following criteria must be met:

1. The proposed alternative achieves the intent of the subject design standard to the same or better degree than the subject standard.
2. The proposed alternative achieves the mixed use goals and policies in the Comprehensive Plan to the same or better degree than the subject standard.
3. The proposed alternative results in benefits to the community equivalent to or better than compliance with the design standards under this ordinance.

Alternative compliance shall apply to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

9.3.12. ADDITIONAL STANDARDS FOR SPECIFIC LAND USES AND ACCESS COMPONENTS IN A VERTICAL MIXED USE BUILDING:

1. *Pedestrian Access:* Separate pedestrian access and entrances shall be provided for the different uses within a vertically mixed use building.
2. *Accessory Dwelling Units:* Accessory dwelling units are allowed in any MX district as an accessory use to a principal single-family detached, duplex and townhouse dwelling. Accessory dwelling units within a MX district shall comply with the accessory dwelling unit standards in §5.2. (*update 5.2.1.3.in final CDO*)
3. *Accessory Retail Services:* Limited general retail services are allowed as an accessory use to a principal industrial use type only. They may be operated on the same lot as the principal industrial use and in conjunction with uses that are specifically allowed in a specific district. In the MX-IB zone district, accessory retail sales must be conducted within the same building as the principal permitted use.
4. *Automobile Service and Repair:* This use shall meet the following conditions:
 - A. Body and fender repair service is a conditional use only in the MX-CC1, MX-CC2, and MX-IB zone districts;
 - B. All work is done within an enclosed building; Outside storage of automotive parts or junk vehicles is prohibited; and, the nearest point of the building in which the activity occurs is more than one hundred (100') feet from the boundary of a residential district or use measured in a straight line.

5. *Live/Work Units*: Live-work units are subject to these standards as well as those covered in remaining parts of this ordinance:
 - A. Multiple live-work units may occur in one (1) structure. Signage shall comply with Article 12.
6. *Private Clubs*: Private Clubs shall be governed by the supplemental use requirements in Article 8 with the following exceptions. On-premise private clubs in the specified zone districts shall be located no closer than two hundred feet (200') from any residentially used or zoned property. The measurement shall be from the property/lot line of the liquor establishment to the property/lot line of the residentially zoned/used property. The distance requirement shall not apply if the residentially zoned property is separated from the property of the club establishment by a major street as defined in the City's Transportation Plan.
7. *Outdoor Storage*: In the MX-NC zone district, outdoor storage of any materials related to nonresidential uses is prohibited. In the MX-CC1, MX-CC2, and MX-IB zone districts, outdoor storage is allowed as an accessory use to a non-residential use if it is enclosed on all sides by an opaque wall or fence which is at least six feet (6') in height. In no event shall materials be stacked or stored to exceed the height of the screening fence or wall.
8. *Veterinary Clinics and Animal Hospitals*: All activities must be conducted within a totally and permanently enclosed, soundproofed building and are restricted to small animal care with boarding of animals overnight only due to the animal's medical condition and associated treatment at the clinic/hospital. No other animal boarding is allowed.

9.3.13. REQUIRED MIX OF USES

To ensure a balance between housing, retail, office, and other commercial development within the MX zone districts, the following standards shall apply:

The concept and phasing plan in an MX zone district shall include a mix of approved principal uses either in each phase, so that no one type of use is developed exclusively in the district at any one time, or in successive phases, so that the required mix is developed with the sequential completion of successive phases. If the first phase includes only one of the proposed mix of uses, then the completion of one or more subsequent phases with another of the proposed mix of uses must occur within six (6) years from the approval date of the original concept plan. For purposes of this provision, the land area of a site or parcel developed with a vertical mixed use building containing two non-residential uses shall be allocated proportionately according to the square footage of the different non-residential uses contained in the building. For residential uses, the total acreage of the site developed in a vertical mixed use building containing multifamily dwellings above the first floor shall be credited toward the meeting the residential use requirement.

The minimum requirement for use types is shown in Table 9.3-2.

Table 9.3-2, Required Mix of Uses

Standard	Mixed Use Zone District			
	MX-NC	MX-CC1	MX-CC2	MX-IB
Minimum Number of Use Types [2] [3]	2	3	3	3
Residential Use required as Part of the Mix?	Yes	Yes	Yes	Yes
Minimum Percentage (total gross district-wide acreage) for Residential Use [1] [2]	N/A	N/A	10%	10%
Maximum Percentage (total gross district-wide acreage) Occupied by a Single Use Type	N/A	80%	80%	80%

[1] Credit for Residential Units and a Vertical Mixed Use: Credit for residential units in a vertical mixed use building: As applicable, the total acreage of a site developed with a vertical mixed use building containing multi-family dwelling units above the first floor shall be credited as residential use in meeting the minimum 10% standard.

[2] Substitution of Adjacent Residential Uses: As applicable, existing residential uses immediately adjacent to the mixed use zone district that meet the same standards for minimum density and vehicular, pedestrian and bicycle connectivity as residential uses within the zone district, and area within at least a quarter mile distance from the boundary of the zone district, shall be credited towards meeting the required residential use and the minimum 10% standard.

[3] Residential is a required use type in all mixed use districts. Other principal use types are listed in Table 4.6-1 as Permitted, Conditional, and Accessory Use.

9.3.14. DESIGN STANDARDS AND GUIDELINES

These following standards and guidelines for MX developments are addressed below.

A. Blocks, Buildings, and Street Networks

The overall layout of a successful mixed use development is one that generates a high level of pedestrian activity. The framework for a pedestrian-oriented layout has three main components:

1. A block structure that reflects a walkable arrangement and positioning of uses.
2. Building placement, orientation, and design to enhance the pedestrian environment and streetscape within that structure.
3. Internal street patterns that defines block edges, create continuous pedestrian connections, and integrate pedestrian travel with other modes of transportation.

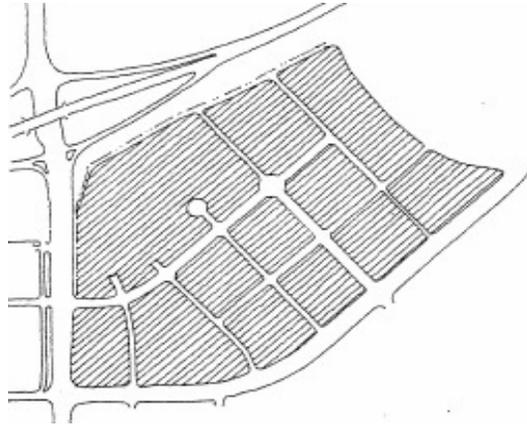


Figure 9.3-7 - Example of an acceptable block pattern

B. Block Design

Standards

1. Block standards shall apply to all development that contains four (4) acres or more of gross land area.
2. All development shall be arranged in a pattern of interconnecting streets and blocks (Figure 9.3-7 and Article 10), while maintaining respect for the natural landscape and floodplain.
3. Each block face shall range between a minimum of two hundred (200) feet and a maximum of six hundred (600) feet. This maximum requirement does not apply along State Roads.
4. The average block face across each development site and the entire mixed use zone district shall be a maximum of five hundred (500) feet. This average does not have to include block lengths along State roads.
5. For block faces that exceed four hundred (400) feet, a lighted mid-block pedestrian pass-through shall be provided connecting opposite sides of block faces. This requirement does not apply along State Roads. Pass-through shall remain open at all times.
6. An applicant may submit alternative block standards, provided that such alternative achieves the intent of the above standards and procedures set forth in Alternative Compliance.

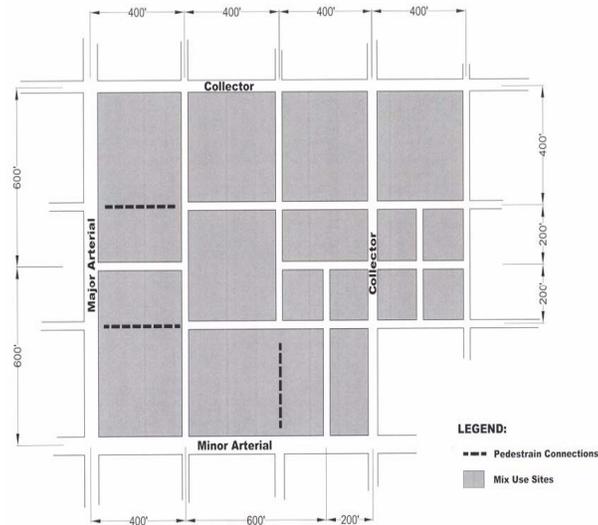


Figure 9.3-8 - Example of block standards

Guidelines

1. Enhanced drive aisles should be used to frame block frontages that consist entirely of surface parking areas. Enhanced drives isles are regarded as those with medians on either side containing sidewalks and street trees 40' on center. In general, the adjacent medians should be 12 feet in width.
2. In blocks that contain non-residential uses, mid-block through-alleys are encouraged to enable secondary vehicle access.
3. Pedestrian pass-throughs should incorporate artwork or display windows and should be designed so they cannot be closed or locked.
4. Pedestrian pass-throughs should be used to connect separate buildings or link customer parking in front of buildings.
5. A block is defined as a tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad right of way, shorelines of waterways, or boundary lines of municipalities. (Define Block in final CDO)
6. For multiple lot developments incorporating internal streets, important street vistas (such as along gateways and primary pedestrian streets) should terminate in a focal point, such as a building, architectural or landscape feature



Figure 9.3-10
Appropriate building entrances

C. Building Entrance Orientation

Standard

All buildings must have at least one building entrance oriented toward an abutting internal or perimeter street with on-street parking, or toward an on-site pedestrian walkway connected to a public sidewalk or toward a square or common open space.



Figure 9.3-9

Typical mixed use streetscape meeting the intent of this ordinance

Guidelines

1. The primary public entry to the building should be obvious and emphasized through the use of such architectural treatments as differing colors or materials, arches or arcades (Figure 9.3-9).
2. A building adjacent to on-street parking should have an entry on that side.
3. A building adjacent to an internal street or perimeter street with a sidewalk should have an entry on that side.
4. Other building entrances may face other streets, off-street parking areas, or loading areas.
5. Building entrances should be covered for weather protection for pedestrians. Overhangs should be at least 48 inches deep. Arcades, roofs, porches, alcoves, porticos, awnings, or any combination of these features are acceptable (Figure 9.3-10).
6. When a building has frontage on more than one street, it should have an entrance on each frontage.
7. When a building is located on the corner of a block, it should have an entry at the corresponding corner of the structure.

D. Site Design for Multiple Building Developments

Standards

1. All buildings shall be arranged and grouped so that their primary orientation complements adjacent buildings.
2. Adjacent buildings shall relate in similarity of scale, bulk, height, architectural style, and/or configuration to existing development, as applicable, and consistent with one of the following site layouts:
 - A. Buildings orient toward, frame and enclose a main pedestrian and/or vehicle access corridor within the development site, including an entry/spine street (Figure 9.3-11); or

B. Buildings orient toward, frame and enclose on at least three sides, parking areas, public spaces or other on-site amenities (Figure 9.3-12); or

C. Buildings orient toward and frame the corner of a perimeter or internal street intersection (Figure 9.3-13); or

D. Buildings orient to adjoining development, respecting adjoining exterior street alignment(s).

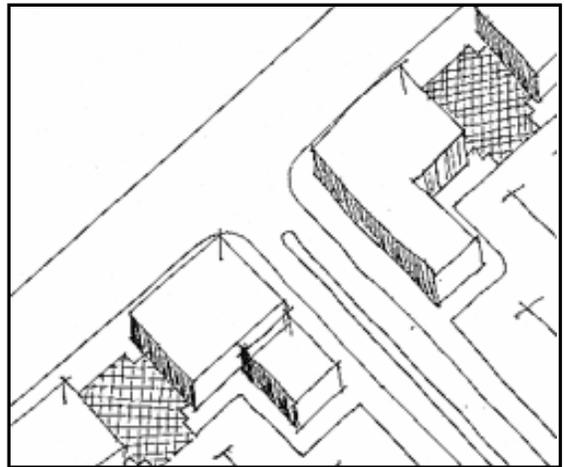


Figure 9.3-13
Buildings framing an entrance

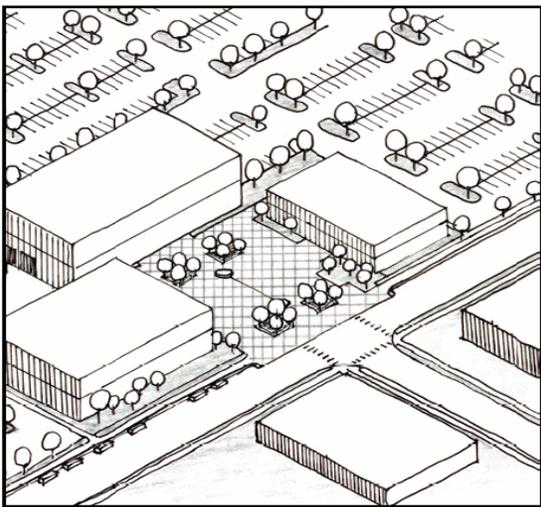


Figure 9.3-12
Buildings framing a space

3. For similarly used properties, the grade of adjacent lots shall match where the properties meet. If there is a significant grade difference, development shall create an attractive transition using creative grading and landscaping or a decorative retaining wall, incorporating vehicular and pedestrian cross-access.
4. Unscreened concrete retaining walls or rock covered slopes (i.e. rip-rap) are not permitted.

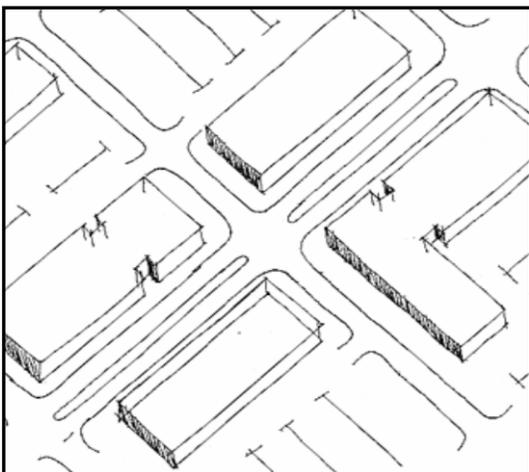


Figure 9.19-11
Buildings oriented towards a spine street

5. Applicants may submit an alternative site layout and building orientation pattern, provided such pattern achieves the intent of the above standards.
6. Strictly linear or "strip" commercial development are prohibited.
7. Minimum lot area: None

E. Building and Streetscape Design

Standards

1. *Building Design:* All building facades that face a public street other than an alley, or face a plaza or other public space, or contain the building's primary customer or user entrance, shall be designed according to the following standards. As applicable, such features shall be applied, at a minimum, to the first fifteen (15) vertical feet of building façade. For every thirty feet (30') of building façade length, the building shall incorporate modulated and articulated building wall planes through use of:
 - A. Projections, recesses and reveals expressing structural bays or other aspects of the façade, with a minimum change of plane of six inches (6"); and
 - B. Changes in color or graphical patterns, changes in texture, or changes in building material. When two or more materials are used on a façade, the heavier material (i.e. brick or stone) should be placed below the lighter material (i.e. siding) to give the sense of support and grounding.
 - C. A continuous pedestrian walkway across the full length of the building façade shall be provided. Walkways shall be at least six feet (6') wide.
 - D. Roof pitches less than 3:12 require a parapet wall. A pitched roof shall be profiled by eaves a minimum of 6 inches from the building face or with a gutter.

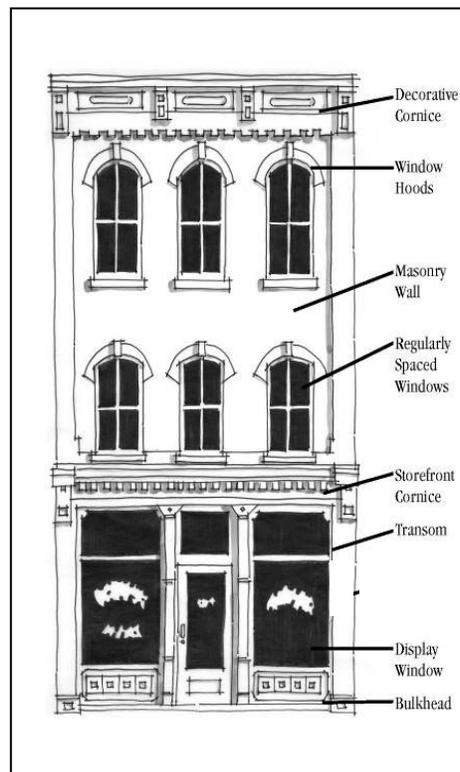


Figure 9.3-14
Example of building with appropriate articulation

2. *Fenestration*: Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically proportioned whenever possible (Figure 9.3.14). Reflective glass is prohibited.
3. *Building Entrance Design*: The primary public entry to the building shall be clearly defined and shall incorporate elements that provide shade from the sun and weather protection for pedestrians.
4. *Underground Utilities*: Underground utilities (and associate pedestals, cabinets, junction boxes and transformers) shall be located in alleys, where possible. To reduce the visual impact of overhead wiring, utility services shall be located underground.
5. *Signs*: A comprehensive sign plan shall be submitted at the time of site plan submittal. Such a plan shall include the location, type, size, and height of all proposed signs in accordance with Article 12.
6. *Mechanical and Utility Equipment*: Mechanical and utility equipment shall be screened from view from nearby streets and properties in the same manner as trash containment areas. Ground mounted equipment shall be located in the rear or side yard and screened. Such equipment located on the roof of the building shall also be made invisible from nearby streets and properties through the use of setbacks from the edge of the roof or through the use of a screen exceeding the height of the equipment and using building materials and design which are compatible with those used for the exterior of the building. If the equipment is not visible off-site, then it need not be screened. The type of screening used shall be determined based on the proposed location of the equipment, existing site conditions, and the type and amount of existing and proposed vegetation on the site.
7. *Screening Dumpsters*: All dumpsters shall be screened in accordance with Article 11.
8. *Second Floor Uses*: At least 50% of the buildings in the mixed use district shall have least 2 stories.

Guidelines

1. *Site Layout & Building Orientation*: Buildings should be arranged and grouped so that their primary orientation complements adjacent, existing development, where applicable. The pattern of building location should be consistent with one of the following site layouts.
 - A. Buildings should orient toward and frame, or enclose a main pedestrian and/or vehicle access corridor within the development (such as an Entry or Spine Street) (Figure 9.3-15);
 - B. Buildings should orient toward, frame and enclose on at least three sides, parking areas, public spaces, or other on-site amenities;
 - C. Buildings orient toward and frame the corner(s) where a perimeter street intersects with an Entry or Spine Street.

- D. A “wrap” of smaller buildings around a large format buildings (buildings exceeding 80,000 square feet) is encouraged



Figure 9.3-15
Example of buildings oriented towards an entry street

2. *Build-to-Lines*: Encourage pedestrian-friendly streets by bringing buildings close to pedestrian sidewalks and ways, the City encourages principal, nonresidential buildings to be built to the back edge of the public sidewalk (0 foot build-to line) except as necessary to allow room for outdoor seating and service areas, outdoor sales and displays, landscaping, entryways, and similar pedestrian and customer amenities. The build-to area between the front property line and the front building wall of residential structures may be used to provide space for privacy, landscaping, private courtyards/open areas/entryways, and similar amenities.

- 3. *“T” Intersections*: The terminus of an intersecting internal street or the main enhanced drive aisle through a parking area that meets a block at a “T” intersection should be located at approximately the mid-point of the block. It should create a focal point (Figure 9.3-16).



Figure 9.3-17
Façade articulation

4. *Buildings*:

A. *Visual Interest and Compatibility*: New buildings should create visual interest in ways that are compatible with the architectural character of the surrounding area. This may be accomplished through the use of such elements as similar rooflines, materials, colors, fenestration, and other architectural details. (Figure 9.3-17).

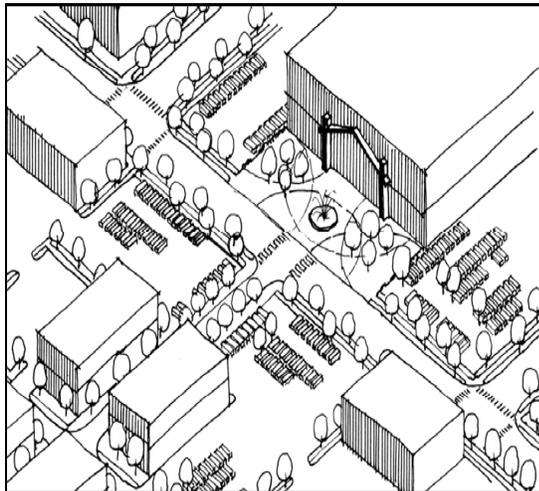


Figure 9.3-16
Building terminating at the end of main axis

B. *Texture and Relief*: All buildings should create texture and relief in facades and should avoid large, flat, unbroken, wall planes (Figure 9.3-17). They should take advantage of the sun to highlight changes in plane, material, and detail, using light and shadow.

C. *Human Scale Detailing*: Facades of buildings that face the street should incorporate human-scale detailing through the use of reveals, belt

courses, cornices, expression of structural or architectural bays, recessed windows or doors, material or material module changes, color and/or texture differences, or strongly expressed mullions.

D. Weather protection elements (Figure 9.3-18) should be complementary to the building's design and the design of contiguous weather protection elements on adjoining buildings. Materials and design should be durable and permanent.



Figure 9.3-18
Example of a retail mixed use building

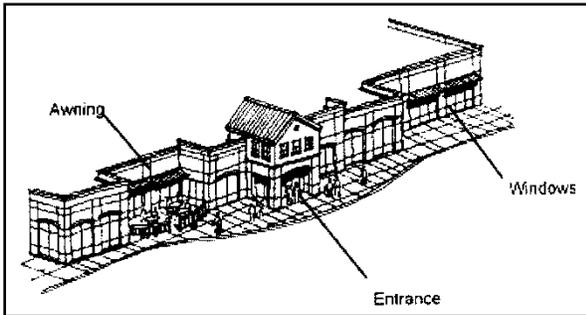


Figure 9.3-19
Large building with broken wall plane

E. The horizontal length of the façade (Figure 9.3-19) of the ground floor of buildings should include awnings, transparent display windows, entry awnings, or other similar pedestrian-friendly features.

F. Each building housing a principal non residential use should incorporate at least two (2) of the following additional features on all building facades facing a public street, public plaza, or public open space:

1. Arbors;
2. Arcades
3. Contrasting building materials or textures;
4. Incorporation of street furniture at the ground floor;
 - A. Incorporation of outdoor eating or seating areas at the ground floor;
 - B. Variations in rooflines along a single block face; or transparent windows that allow views into and out of the building; black, mirrored, or other opaque surfaces should never be used.

F. MX Residential Structures

The following standards and guidelines apply to residential structures in MX's.

¹ For lots less than 60 feet wide and multi-family uses, alley/rear lane access to all off-street parking areas is required. For lots greater than 60 feet wide, access to off-street parking is permitted from the fronting street or rear lane/alley.

² Unless setbacks for specific streets are established by an approved area plan.

³ Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways are permitted to encroach into the front setback so long as they do not interfere with traffic and pedestrian movement, utilities, or recorded easements that provide other services or access.

⁴ For lots that provide access to off-street parking from a rear lane/alley

⁵ Upper story balconies may encroach into the right-of-way (over sidewalk only) with written permission from the City Council.

⁶ In new developments, the entire setback may be allocated to one side with a minimum of 6 feet of total building separation, providing the setback condition is consistent with the block

Table 9.3-3 Dimensional Standards			
Item	Detached House, Duplex	Townhouse	Flat/Loft Building
Lot Width ¹ (Minimum)	30 ft	16 ft	n/a
Front Setback ² (Minimum)	10 ft	0 ft	0 ft
Front Setback ² (Maximum)	20ft	10 ft ⁵	8 ft ⁵
Front Yard Encroachment ³	Allowed	Allowed	Allowed
Side Setback (Minimum)	5 feet	6 ft between buildings	6 ft between buildings
Rear Setback (Minimum)	20 ft	5 ft	5 ft
Rear Setback from Alley ⁴ (Minimum)	5 ft	5 ft	5 ft



Figure 9.3-22
Townhomes that meet the requirements of the ordinance

1. **Setbacks:** Setbacks shall adhere to Table 9.3-3. All dimensions are subject to fire code restrictions and may vary. For lots fronting on 4 lane roads or expressways, additional setback depth may be required.

2. **Rooftop Equipment:** All rooftop equipment shall be screened from view.

3. **Mailboxes:** Community mailboxes shall provide a covered area for users and have 4 dedicated on-street or off-street parking spaces. Individual mailboxes for detached homes shall be architectural compatible with the house and utilize similar materials and colors.

4. **Driveway Width:** Single lane driveways serving detached homes shall be 12' in width.

Guidelines:

1. Driveways serving detached homes should be dual tread, leaving a grass strip in between.

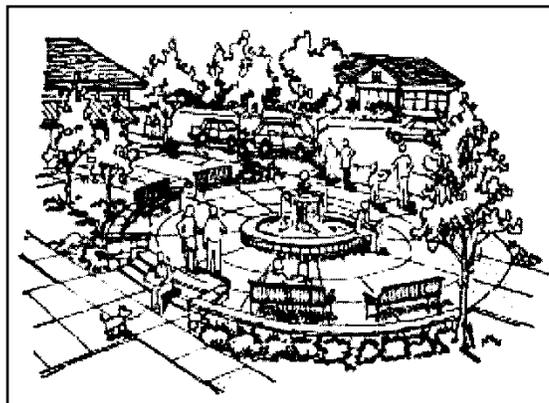


Figure 9.3-24
Pedestrian Plaza

F. REQUIRED PUBLIC AMENITIES

Standards

1. *Minimum Requirements:* All developments 5 acres or greater shall incorporate at least two (2) of the following on-site amenities or features:

- A. Patio or plaza with seating areas. Such a space shall have a minimum depth and width of ten (10) feet, and a minimum total area of three hundred (300) square feet.
- B. Asphalt is prohibited as a surface material; use of decorative pavers or textured, colored concrete is required.
- C. Patios and plazas shall include pedestrian amenities intended to support these places as gathering areas.
- D. Landscaped mini-parks, squares, or greens, provided such park or green has a minimum depth and width of ten (10) feet and a minimum total area of six hundred fifty (650) square feet, and shall include pedestrian amenities intended to support these places as gathering areas (Figure 9.3-23 and 11-24).
- E. Protected customer walkways, arcades, or easily identifiable building pass-throughs containing window displays and intended for general public access.
- F. Water feature, such as a lake, pond, or fountain (Figure 9.3-24), provided the feature is easily accessed by pedestrians and includes or integrates seating areas for pedestrians.
- G. Outdoor public art in an area that is visible from an adjacent public sidewalk or street, and easily accessed for viewing by pedestrians.



Figure 9.3-23
Pedestrian plaza

2. Any other, well-designed area and/or focal feature that the administrator finds is consistent with the intent of this subsection, substantially enhances the development and serves as a gathering place for residents, visitors, customers, and employees.

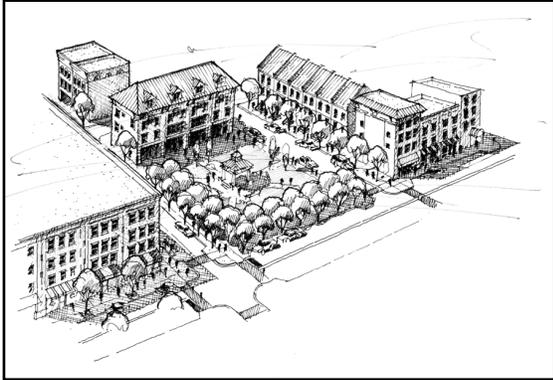


Figure 9.3-25
An “outdoor room” is created by surrounding an open plaza or

3. When a building will be adjacent to a pedestrian plaza, patio, mini-park, square or green as provided under this part (Figure 9.3-25), the building wall facing such outdoor amenity shall contain at least one (1) of the following elements:

- A. A building entry;
- B. Windows facing onto the outdoor amenity;
- C. Arcades along the edges of the outdoor amenity
- D. Outdoor seating areas; or
- E. A similar feature that the Administrator finds will bolster security and encourage pedestrian use of the outdoor amenity.

4. If the proposed development contains a existing or proposed transit stop, the development shall include a covered structure compatible with the surrounding architecture. A minimum of two 6-foot benches shall be incorporated into the transit stop.

Guidelines

1. Patios, plazas, mini-parks, squares and greens should be proportionate in size to the development. Small-scale amenities are appropriate for small developments, and large-scale amenities are appropriate for large developments.
2. Temporary stormwater detention ponds should not be regarded as a water feature.
3. In order to serve as a focal point, a feature should be visible, become a functional part of the development, and easily recognizable as an area that encourages outdoor assembly. It may be framed by a view corridor, be placed on a high point, or be visually related to a multi-use trail or other walkway.
5. Pedestrian amenities for patios and plazas, and for landscaped mini-parks, squares or greens may include seating, lighting, special paving, planting, food and flower vendors and artwork.
6. A minimum of 25 linear feet of seating should be provided for every 1,000 square feet of open space.

7. Seating should be more than 12 inches and less than 30 inches in height and not less than 16 inches in depth. Seating more than 28 inches in depth and accessible from two sides should count double.
8. Moveable chairs are encouraged.

G. MIXED USE VEHICLE ACCESS, CIRCULATION, AND CONNECTIVITY

Standards

1. *General Design*: Vehicle access, circulation, and connectivity for development in all MX zone districts shall be governed by the street standards for mixed use centers as set forth in the *City of Concord Technical Standards Manual*.
2. *Vehicle Access*: Primary vehicle access to MX's shall be provided from perimeter arterial streets and from perimeter collector streets. Vehicle access from surrounding residential areas and adjacent neighborhoods shall be provided via perimeter collector streets and adjacent local streets.
3. *Cross Access*: Within a MX, cross access easements are required whenever necessary to ensure that adjacent parcels have adequate access to accommodate existing or future ownership patterns.
4. *Enhanced Drive Aisles*: Where the entire frontage along an internal block face consists of a parking area, an enhanced drive aisle may be utilized in lieu of a street to provide access to the parking area and circulation along the block face.
5. *Block Structure*: Development in an MX shall be based on a block structure consistent with § 9.8.19.2 in order to provide connectivity both within the mixed use development and with adjacent street systems.
6. *Street Connections*: Internal streets in MX's shall be aligned to connect with existing or planned external streets of equivalent functional classification in order to create through street connections from mixed use development to adjacent development. Where it is necessary to prevent cut-through traffic from entering residential areas, street alignments shall be discontinuous and traffic calming improvements shall be utilized.
7. *General Circulation Standard*: For all new MX development on sites that are four (4) acres or more in total gross land area, internal circulation shall be provided through an internal street system and multiple blocks.
8. *Street System*: Internal streets provided according to this section may be public or private. All public and private streets shall be designed and constructed according to the policies, standards, and guidelines governing street design in MX's outlined in the *City of Concord Technical Standards Manual*.

9. Circulation Drives: Along major thoroughfares, a one-way circulation drive may be permitted around the front of the building but may not encroach into the front setback or any required landscape area. If provided, this drive shall be designed to be the minimal width required (not to exceed 12 feet in width) and shall be constructed using alternative paving treatments such as pavers or stamped concrete.

H. PEDESTRIAN AND BICYCLE ACCESS CIRCULATION

Developers shall provide a complete network of pedestrian paths that interconnect building entrances, parking, transit stops, public sidewalks and crosswalks, adjacent properties, adjoining off-street paths, and other key destinations on or adjacent to the site. Connection to adjoining parcels for bicycles shall also be provided. If no immediate benefit can be derived from pedestrian links between adjoining properties, a future at-grade link shall be provided for through a construction easement to the adjoining property.

Standards

All new development shall provide pedestrian and bicycle systems that provide continuous connections with off-site destinations according to the following standards:

1. Safe and convenient bicycle and pedestrian access from the development site shall be provided to existing and designated public bike paths or greenways located on or adjacent to the development site.

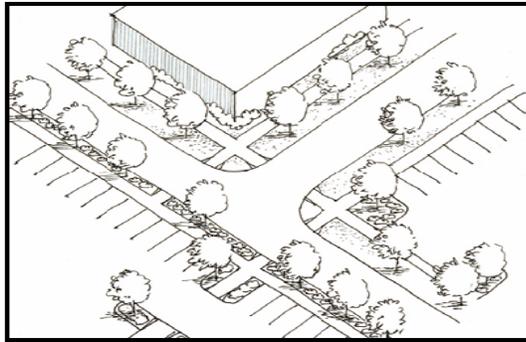


Figure 9.19-26
Pedestrian Connections

2. Connections shall be made to provide direct pedestrian and bicycle travel from within the development to adjacent uses, transit stops, perimeter sidewalks, and to major pedestrian destinations located within an adjacent neighborhood. Pedestrian access shall be provided by connection to any sidewalks or walkways on adjacent

properties that extend to the boundaries shared with the development site (Figure 9.3-26). In order to provide efficient pedestrian connections to adjacent destinations, the City may require additional sidewalks, walkways, or bike paths not associated with a street, or the extension of a sidewalk from the end of a cul-de-sac to another street or walkway.

3. Where a MX is located adjacent to a signalized street intersection, a pedestrian walkway shall connect the on-site pedestrian system with the intersection and shall be connected at a distance of no further than

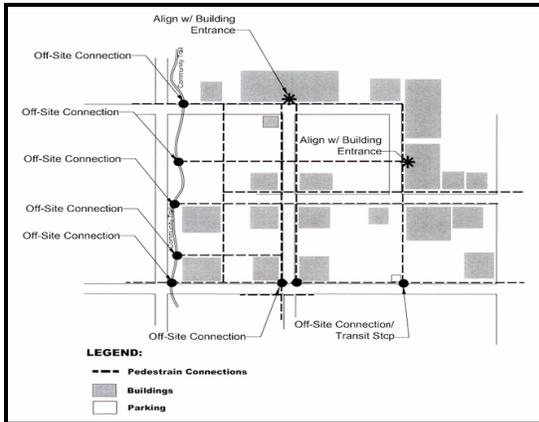


Figure 9.3-27
Pedestrian Circulation System

accordance with bicycle components of the adopted transportation plan bicycle master plan. Connections to adjoining bicycle paths or lanes shall be made. Bicycle lane widths shall conform to those outlined in the City of Concord Technical Standards Manual.

Guidelines

1. The intent for perimeter connections is that they be frequent and consistent with the internal (and if possible external) block pattern. For example, if a 400-foot block face exists internally, the same should apply to connect to the external walkway system.
2. When necessary to assure the public's safety in using on-site or connecting pedestrian and bike ways, the City may require the developer to provide on-site or off-site pedestrian and/or bicycle overpasses, underpasses, transit stops or traffic signalization.

I. INTERNAL PEDESTRIAN CIRCULATION AND CONNECTIONS

Standards

1. *Required Connections:* Each development shall provide an on-site system of pedestrian walkways and/or public sidewalks throughout the zone district (Figure 9.3-27) The on-site pedestrian circulation system shall provide the most efficient access route between the intended points of travel. Specifically, onsite pedestrian connections shall be provided to and between the following points:
 - A. The primary entrance or entrances to each building housing a principal use;
 - B. Existing or planned transit stops, stations, and park-n-ride locations;
 - C. Greenways or trail systems, where determined appropriate
 - D. either by the City or County Parks and Recreation Director, Livable Communities Blueprint of Cabarrus County, Transportation Plan or by the Administrator
 - E. On-site amenities

two hundred (200) feet from the intersection. The Administrator may grant an exception where there are no existing or planned perimeter sidewalks.

4. Connections from a perimeter public sidewalk system to the on-site sidewalks shall be made at the same block length interval as exists within the development site.

5. Bicycle lanes shall be included along collector streets where the projected motor vehicle volumes based on the traffic impact study are above 4500 vehicle trips per day and the street's posted speed limit is above 25 mph. Bicycle lanes should also be provided on any thoroughfares in

Guideline

It is important to create a pedestrian walkway system that provides direct linkages with primary destinations, otherwise alternative means of access will be used, such as short cuts through parking lots, or driving. Sidewalks and walkways should be planned early in the site design process and given a high priority, so that access is provided as efficiently as is reasonable, to destinations within and outside the site.

J. CONNECTIONS TO ON-SITE PARKING

Standards

1. All developments served by on-site parking in surface lots or parking structures shall provide either a sidewalk along the perimeter of the block or a designated pedestrian walkways through the parking lot, extending from the rows of parking furthest from the building served to either a building entrance or to a sidewalk or walkway leading to such entrance (Figure 9.3-28). A minimum of one (1) connecting walkway or sidewalk shall be provided for every four hundred (400) lineal feet of vehicle parking area.

Where an internal block face exists or is proposed greater than four hundred feet (400'), a pedestrian walkway shall be included through the parking lot, separate from streets, such that the four hundred foot (400') minimum distance between walkways is achieved. Alternative compliance may be allowed as described in §11.8.5.5.

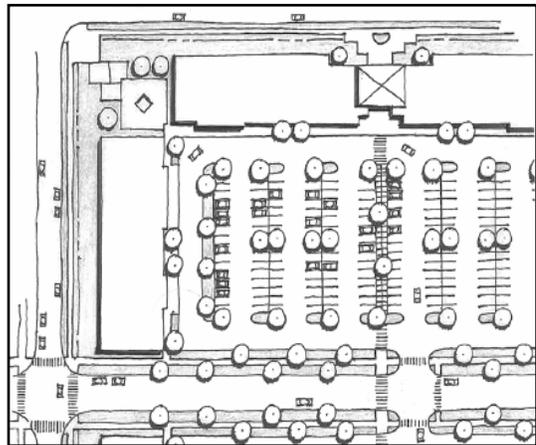


Figure 9.3-28
Pedestrian connections

2. Where an enhanced drive aisle forms the perimeter of a block, sidewalks shall be provided on both sides of the drive aisle

(Figure 9.3-29).



Figure 9.3-29
Primary destination link

K. SIDEWALK/WALKWAY DESIGN

Standards

Sidewalks and walkway shall be designed according to the standards shown in the *City of Concord Technical Standards Manual*.

1. All internal pedestrian walkways and sidewalks shall have a minimum unobstructed width of six feet (6'), except that walkways for both pedestrian and bike use shall provide an unobstructed minimum pathway width of twelve feet (10'). Pedestrian and bicycle pathways connecting to greenways or trail systems are subject to standards in the *Livable Communities Blueprint for Cabarrus County*.
2. Walkways shall be designed to create a safe and uninterrupted pedestrian way, and shall avoid frequent crossings by driveways or streets.
3. Perimeter or walkways sidewalks shall be a minimum of 5 feet in width.
4. Sidewalks or walkways adjacent to a parking area where cars will overhang shall be a minimum width of 7 feet.
5. Sidewalks or walkways along the full length of a building façade, where customer entrances are located, shall be no less than 8' feet in width.
6. At each point where a sidewalk or walkway crosses a street, the walkway shall be clearly marked using a change in paving material and color.
7. Sidewalks shall be provided on both sides of the street excluding alleys.
8. Internal sidewalks and walkways shall be well lit and constructed to provide an unobstructed line-of-sight to other pedestrians, motor vehicles, and other site users.

Guideline

Walkways should provide relief from the paved expanses of parking lots and streets. A way to do this is to design pedestrian walkways as amenity areas with landscaping, benches, lighting, signage and attractive street furniture.

L. PEDESTRIAN PASS-THROUGH DESIGN

1. Where a block face is greater than four hundred (400) feet, pedestrian access shall be provided through the block or building(s) at a distance no greater than four hundred (400) feet. The pedestrian passthrough (Figure 9.3-30) must stay open, regardless of whether businesses are open or closed. Alternative compliance may be allowed as described in §9.3.11 The administrator may waive the requirement for pedestrian pass-through in



Figure 9.3-30
Pedestrian pass-through

cases where there is limited viability for pedestrian access such as adjacency to an expressway or freeway.

2. Alleys and service areas shall not be considered to be pedestrian pass-through, although alleys may be designed with pedestrian walkways.

M. STREET CROSSINGS

Standards

All pedestrian street crossings shall comply with the applicable policies, standards, and guidelines governing street crossings for MX shown in the Technical Standards Manual.

Guideline

Pedestrian crosswalks across major streets should be signalized and developed with a different treatment in the crosswalk to differentiate it from the street paving and parking areas and emphasize the presence of a crosswalk. Mid-block crossings, where necessary for good access, should include similar design characteristics.

N. VEHICLE PARKING

Requirement of a Parking Master Plan: A parking master plan showing the proposed parking, for the overall development shall be approved at the time of rezoning.

All uses in an MX shall meet the motor vehicle parking requirements of Article 8, Off-street Parking and Private Driveway Standards. Due to the pedestrian nature of mixed use development, minimum parking requirements for retail, service, and institutional uses may be reduced by 25% for any use-related parking standards established in Article 8.

Supplemental Parking Standards

Minimum off-street parking amounts required for uses in MX zone districts are subject to the additional parking allowances and standards displayed in the following table by use type.

Use Type	Minimum Required Off-Street Parking Spaces within a Mixed Use Zone District
Residential Use Types	Per Article 8
Accessory Dwelling Unit	1 space per dwelling unit
Live Work Structure Residential Portion Only Non Residential Portion	1 space per dwelling unit The lesser of: a.) 1 space per 400 SF or; b.) 1 space for each non-residential employee
Commercial Use Types	1 space per 400 SF
Civic Use Types	1 space per 300 SF
Industrial Use Types	1 space per 1000 SF
Transportation Use Types	1 space per 300 SF

In addition to the standards outlined in Article 8, the following parking standards shall be applicable to all development within a MX zone district:

1. *On-Street Parking*: On-street parking is required where a particular land use will generate regular patrons for a business establishment. Occasional on-street parking (such as within a single family area) can be accommodated without additional pavement width or delineation. On-street parking shall count toward any minimum parking requirements.

2. *On-Street Parking – General*: The Administrator may allow on-street parking spaces located within four hundred (400) feet of the subject use to be credited to meet up to twenty-

five percent (25%) of the minimum required off-street parking spaces. On-street parking allowed by this provision shall not be counted toward the maximum amount of parking allowed. This provision shall not apply when a new MX is created, unless the district includes newly created public streets that can accommodate on-street parking or where it can be

demonstrated through a parking utilization study that the existing on-street capacity on adjacent streets is underutilized.

3. **Credit Reductions:** The administrator may reduce the minimum off-street parking requirements by up to fifteen percent (15%) for MX developments if the development is one-quarter (1/4) mile of a high-frequency transit stop or a public parking deck or lot.

4. **Location of Off-Street Parking** lots/decks shall be located to the side or behind buildings or in the interior of a block whenever possible. Parking areas in the side yards shall be located a minimum of 10 feet behind the frontage line of the building. No off-street parking shall be located within any front yard except for single-family residential uses or existing buildings not serviced by a rear alley. All off-street parking spaces for multi-family buildings shall be in the rear yard only and access to any garages shall be from the rear. Figure 9.3-31 illustrates an acceptable parking configuration.

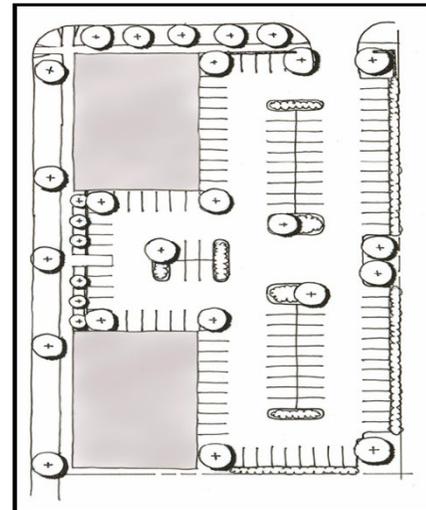


Figure 9.3-31
Acceptable off-street parking

Primary parking lots (over 24 spaces) and parking garages shall not:

- A. Abut street intersections;
- B. Be located adjacent to squares or parks; or,
- C. Occupy lots which terminate a street vista

5. **Enhanced Pedestrian Access in Parking Lots:** All off-street surface parking areas shall be located within a designated block. For block faces that are composed entirely of surface parking lot areas, a street or enhanced drive aisle (Figure 9.3-32) that provides a detached sidewalk, defined pedestrian crossings, and street or parking lot trees along the block face shall border the block face.

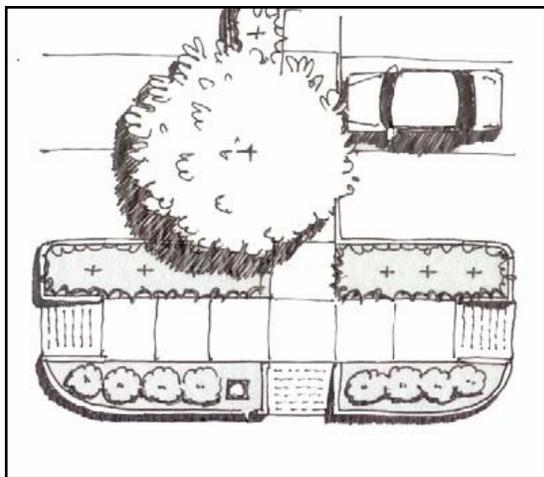


Figure 9.3-32
Enhanced pedestrian walkway

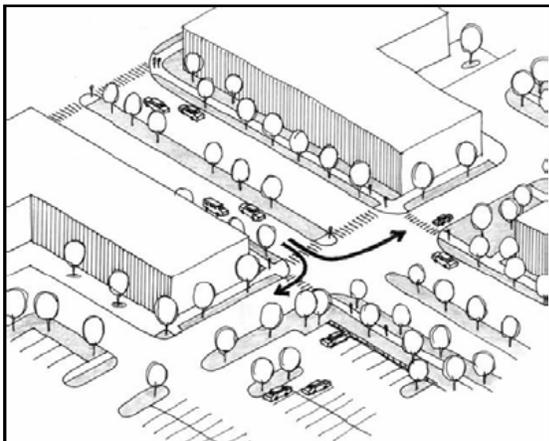
6. **Maximum Off-Street Parking Amount:** The maximum amount of off-street parking permitted for all uses in a MX shall be one (1) space per one hundred, seventy five (175) square feet of gross floor area.
7. **Exemption for Off-Street Parking in Structures:** Required off-street parking spaces provided within a parking structure (either above or below-grade) shall be exempt from the maximum off-street parking amount established above.
8. **Shared Parking Standards:** The amount of off-street parking required for a mixed use

development may be reduced by an amount determined by the Administrator when it can be demonstrated through a parking demand study that sufficient parking is or can be met by the subject uses through shared parking. The parking demand study shall provide information and evidence about the anticipated parking demand at peak times during a day and the distance relationship between available shared parking spaces and the specific uses served.

9. *Shared Parking Required:* To promote an overall reduction in parking, the use of shared parking shall be required when the development is under the control of a single owner/developer and contains commercial, retail, office, institutional, or public uses with staggered peak parking demands.
10. *Shared Parking and Cross Access Agreements:* Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the Planning Director and recorded prior to issuance of a building permit. This agreement must be recorded as a deed restriction on both properties and cannot be modified or revoked without the consent of the Administrator. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Administrator or provide the full amount of required parking for each use, in accord with the requirements of this part.
11. *Maximum Total Reductions:* Total cumulative reductions to the minimum off-street parking requirements shall not exceed twenty-five percent (25%).

Supplemental Parking Guidelines

1. *Parking Encouraged:* The use of shared parking is strongly encouraged to reduce overall parking amounts for the following types of mixed use developments:
 - A. Residential uses in close proximity to complementary uses, such as residential adjacent to grocery stores or office uses, or uses in vertical mixed use buildings, and
 - B. Land uses with staggered peak parking demands when the individual uses are not under the control of a single owner/developer.
2. *Repair Bays:* For automobile service stations, repair garages, or other similar uses repair bays should not be counted as part of the required off-street parking spaces.
3. *Drive-up Restaurant Parking:* For restaurant types in which food is ordered from, delivered to and consumed within a vehicle, the parking requirements should be based upon the gross floor area of the building in which the food is prepared as well as the area of the parking stalls designed to accommodate in vehicle food consumption.



4. *Dispersing of Incoming Traffic:* Off-street surface parking areas that serve buildings fronting on an entry/spine street should be located to provide the earliest possible access to automobiles after they have entered the site (Figure 9.3-33 and 11-34).

Figure 9.3-33
Dispersing incoming traffic.

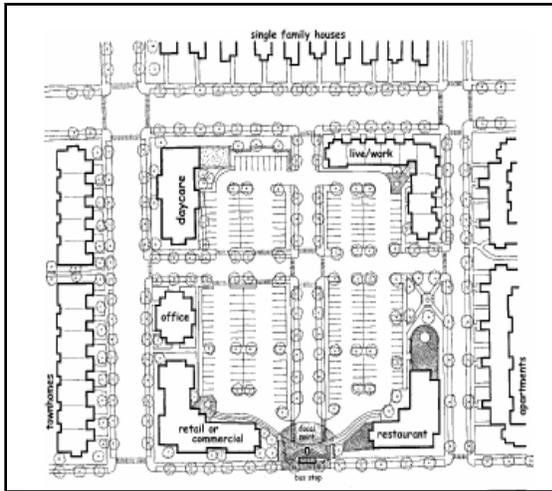


Figure 9.3-34
Example of an acceptable parking arrangement

O. PARKING STRUCTURES AND DRIVES

Standards

1. Design: The design of a parking deck (Figure 9.3-35) shall comply or include the following:

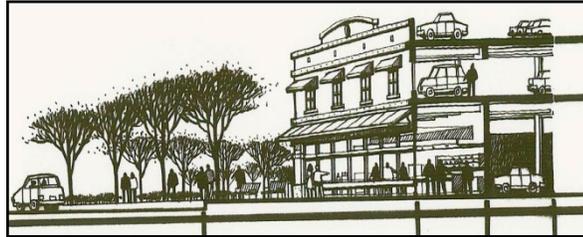


Figure 9.3-35
Example of a properly designed parking deck.

A. The ground-level of a parking structure Should be wrapped by retail, office or some other active use along at least the primary façade.

B. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars.

C. No blank walls

2. Vents and Utility Openings: In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building façade, then they shall be an integral part of the overall building design. Decorative elements shall be used to soften openings. In no case shall cabling be sufficient to meet this requirement.

3. Vehicle Entry: The entry locations for vehicles shall be oriented away from the primary street frontage. Entry/exit locations shall be located in areas that minimize pedestrian conflicts.

4. Ground Floor Treatment: Parking structures that integrates non-residential uses on the ground floor, shall build to a sufficient depth to allow such uses. The façade of the first floor shall incorporated the same design features as required for other building facades in MX's

5. Integration with Residential Uses: When a parking deck provides parking for residential uses or is integrated with residential uses shall either:

A. Follow the design standards outlined for non-residential uses; or

B. Use the ground floor of the structure for parking provided the ground level façade of the structure is at least 12 feet in height and contains a false façade that integrates the same design elements as required for non-residential structures.

6. High-Quality Materials: Along pedestrian-oriented streets, parking structure facades shall be treated with high quality materials and given vertical articulation and emphasis compatible to the principal structure. Materials shall compliment existing and planned buildings.

P. Bicycle Parking

1. Bicycle parking is required based on the use of the building and the percentage of motor vehicle parking provided for each use, as indicated in the following table below. Bicycle parking is not required for single-family houses, townhouses, and apartments of less than 4 units per building. Where fewer than 2 spaces are required, at least two bicycle parking spaces or one rack shall be provided.

2. An “Inverted U” (Figure 9.19-36) or other bicycle parking rack that supports the bicycle at two points on the bicycle frame is the minimum standard for fulfillment of the bicycle parking standards. A single inverted U rack will count as two bicycle parking spaces. Long term bicycle parking, which protects the entire bicycle and its components from theft, vandalism, and weather (such as bike lockers, locked rooms) may be provided for use by employees and students and may count toward fulfillment of the bicycle parking requirements.

3. Bicycle racks shall be located no closer than three feet from any wall to provide adequate space for access and maneuvering. Bicycle parking for customers and visitors shall be placed along a major building approach line and clearly visible from the approach and no more than 50 feet from building entrances or no further than the closest motor vehicle parking space, whichever is less. Rack placement shall allow for visual monitoring by people within the building and/or people entering the building. Uses with several major, actively used entrances shall locate a portion of the bicycle parking at each entrance.

Use Type	Bicycle Parking Spaces per 100 Auto Spaces
Multi-family Residential (>4 bldg. units) Office/Business Services Retail Trade (except Lodging) Institutional/Civic (Non-Assembly Uses)	5
Lodging Wholesale/Manufacturing/Industrial Institutional/Civic (Assembly Uses Only)	2
Institutional/Civic (Schools)	10

Q. LANDSCAPING AND SCREENING

Standards

1. General Requirements: With the exception of the following additional standards, all landscaping shall meet the requirements of Article 11.
2. Parking Area Screening: All parking areas adjacent to public rights-of-way shall be screened from view using one of the following methods.

- A. A berm 3 feet in height with max. side slopes of 3:1 in combination with evergreen and deciduous trees and shrubs
 - B. A continuous hedge of evergreen shrubs that will reach a mature height of 3 feet and provide an opaque screen.
 - C. A decorative or ornamental fence 36 to 42" high in combination with shrubs and trees planted on the inside of the wall. The amount of plant material shall meet the requirements under Article 7.
 - D. Any combination of the aforementioned methods.
3. All linear shrubs beds shall be a minimum of 4 feet in width.
4. Street trees are required on all streets in the MX zone district.

R. SITE LIGHTING

Standards

1. *Shielding*: All exterior lighting shall be arranged to reflect away from any adjoining premises and any public right of way, and shall be shielded to contain all direct rays on the site. The light element (lamp or globe) of a fixture shall not extend below the cutoff shield. When a canopy (freestanding or attached) is illuminated, the lighting fixture shall not extend below the ceiling of the canopy. All exterior lighting within a MX, including signage lighting, shall meet the following additional standards:
2. *Lighting Plan: Plan required*: Applicants shall submit a detailed lighting plan with final site plan applications. Plan shall indicate fixture types, pole design, location, and footcandle spread. A development-wide lighting plan shall address at a minimum the general location and general types of lighting to include the following:



Figure 9.3-37
Example of appropriate light fixtures

- A. Public and private street lighting, pedestrian lighting, parking lot lighting, residential area lighting, signage lighting, and lighting for service and delivery areas.
- B. Street lighting in residential and retail areas shall include pedestrian-scale, decorative streetlights no taller than 20 ft.
3. *Shielded Lights*: Fully shielded lighting fixtures shall be used in all parking areas, in service and delivery areas, (Figure 9.3-37) in residential areas, and for signage.
4. *Minimum Lighting Standard*: Ornamental light fixtures may be used in streetscapes; however, public street lighting shall meet the standards of and be approved by the Concord Transportation Department.

Guidelines

1. The character of a development should be reflected in its lighting. The light fixtures along streets should contribute to a coordinated, attractive streetscape that works well with street trees, curb cuts, signage, street furniture and other features to create continuity in the streetscape.
2. A mixed use development should be designed to create compatibility between commercial and residential uses. The types of issues that would be addressed are glare, safety, illumination levels, clear designation of pedestrian ways, and aesthetic appeal.
3. Pedestrian circulation is encouraged and therefore pedestrian oriented lighting is encouraged. Pedestrian area lighting should emphasize the location of pedestrian ways and be in character with the architectural and landscape design of the center.
4. The use of a greater number of low fixtures is preferred over fewer taller fixtures.
5. Parking area lighting should complement the lighting of adjacent streets and properties, with consistent fixtures, source colors and illumination levels. When adjacent to pedestrian circulation and gathering areas, parking area lighting should not overpower the quality of pedestrian area light

S. STREET NETWORKS

Mixed use centers are intended to incorporate all modes of transportation (motorized vehicles, bicycles, transit and pedestrians) both safely and efficiently by meeting the design standards for streets in *Mixed Use Developments* outlined in *City of Concord Technical Standards Manual*.

Since mixed use developments tend to create higher traffic impacts than single use development, mixed use centers will be limited to locations along arterial and collector streets, with the cross-street for an arterial being no less than a collector. This minimizes the impact on adjacent residential neighborhoods. A mixed use center has the potential to reduce traffic impacts by providing alternatives to automobile trips within the neighborhood and convenient connections to the regional transit and bicycle systems. Additionally, a mixed use development will produce more internal automobile trips than a convention development. Except as expressly waived, the Traffic Engineering Department will adhere to standards set forth in the *City of Concord Technical Standards Manual*.

Standards

1. *Basic Design:* All streets shall be designed to meet City of Concord street found in the *City of Concord Technical Standards Manual*.
2. *Driveways:* Driveways spacing shall comply with Concord Transporting Engineering requirements and the *City of Concord Technical Standards Manual*.
3. *Access:* A minimum of one access point per property ownership shall be permitted, which may be jointly shared with adjacent properties.

4. *Traffic Study*: A traffic impact study may be required if the City Traffic Engineer determines a need.
5. *Connectivity*: The Connectivity Ratio set forth in the adopted small area plan or concept plan shall apply to all new development. Streets shall interconnect within the development and with adjoining development. Street stubs shall be provided with development adjacent to open land to provide for future connections. Streets shall be planned with due regard to the designated corridors on the adopted Thoroughfare Plan.
6. *On Street Parking*: All on-street parking should be parallel. Angle parking is permitted in front of high traffic retail locations and where the posted speed is 20 mph or less.
7. *Street Pattern*: Streets shall be laid out in a pattern that conforms to an adopted small area plan or concept plan.
8. *Curbs and Drainage*: Standard curbing is required along all streets with on-street parking. Mountable curbing is permitted around center medians, roundabouts, and other features in order to facilitate the infrequent use by vehicles with larger turning radii. All drainage grates, if provided, must be safe for bicyclists (grating must be perpendicular or diagonal to the street centerline).
9. *Cul-de-sacs*: The use of cul-de-sacs in place of complete through street connections is strongly discouraged. However, when a cul-de-sac is determined to be the most practicable option, it shall not exceed (500) feet in length.
10. *Signalization*: Signalized access will only be allowed when agreed to by the Traffic Engineer or his designee and only when traffic impacts are forecast to meet signal warrants as identified in the Manual on Uniform Traffic Control Devices (MUTCD). Pedestrian signals will be allowed when traffic and/or pedestrian impacts are forecast by the Traffic Study to meet signal warrants as defined in the MUTCD. The installation of traffic and pedestrian signals for proposed development will not be the responsibility of the City of Concord. Signalized access will only be allowed for streets constructed to City standards.
11. *Blocks*: Mixed use developments will be based on a block structure in order to provide connectivity and to allow block length combinations that provide flexibility in providing pedestrian access and signalized access when warranted. Block lengths, as measured from curb face to curb face, will be a minimum of two hundred (200) feet and a maximum of six hundred (600) feet, with the average of all block lengths in a mixed-use development not to exceed five hundred (500) feet. No vehicular access will be allowed into MX within six hundred (600) feet of two intersecting principal arterials or higher classified roadways or as allowed by the City Traffic Engineer.
12. *Pedestrian Access*: Pedestrian and/or bicycle access into the site will be required within two hundred (200) feet of two intersecting principal arterials.

13. **Driveway Length:** Driveways that provide access to parking lots from perimeter streets into MX's shall be of sufficient length to allow vehicles to enter the center and not be obstructed from on-site conflicts in which traffic queues (Figure 9.19-38) onto the public or private street system. Typical stem lengths can be found in following table.

General Guide for Driveway Length

Peak Hour Driveway Entering Volume	Unsignalized Minimum Driveway Length (x)	Signalized Minimum Driveway Lengths (x)
0-25	25	75
25-50	50	100
50-75	75	125
75-100	100	150
100-125	125	175
>125	150	200

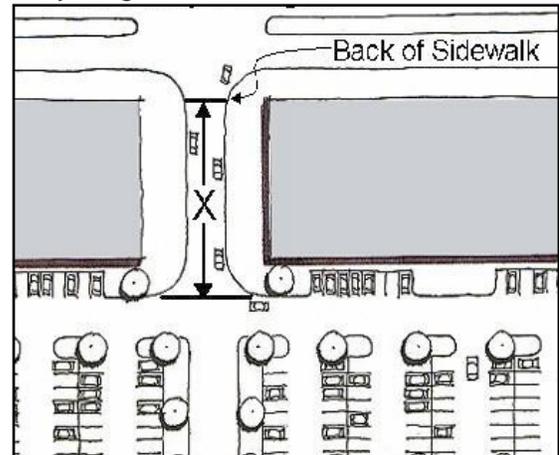


Figure 9.3-38
Illustration of an Entry Drive

14. **Main Entry:** Entry/spine streets are required for all Commercial Center (MX-CC1 and MX-CC2) and Regional/ Employment Center (MX-IB) mixed use developments. Entry/spine streets shall provide their main access from arterial streets into the center and are intended to clearly identify a driver has entered a “unique” area.
15. **Curb Extensions:** Curb extensions/Bump Outs shall be required on all public and private street intersections where on- street parking is allowed (Figure 9.19-39). Curb extensions will not be allowed to extend across an on-street bicycle lane or across a right-turn lane.
16. **Sight Distance:** Clear sight distances free from obstructions must be *maintained* to allow vehicles to safely make turns at intersections and for pedestrians to have adequate time to cross the street. Intersection design shall meet MUTCD the Transportation Department guidelines and may include enhanced crosswalks with directional ramps, pavement treatment, median refuge islands and pedestrian indicators (Figures 11-40).

17. **Pedestrian Safety:** Pedestrian refuge areas or medians are required on all roadways classified as major collector and above. All pedestrian crossings (Figure 9.19-40) shall comply with the standards set forth in the Americans with Disabilities Act (ADA) and/or City of Concord Technical Standards Manual, whichever is the stricter rule. Pedestrian ramps shall be oriented directional only.



Figure 9.3-39
Curb Extensions

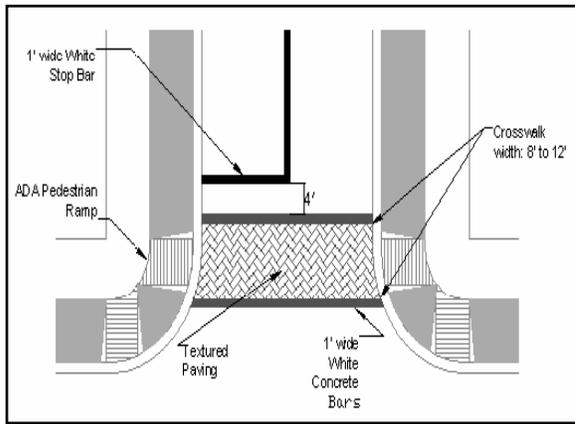


Figure 9.3-40
Acceptable Pedestrian

feet.

Guidelines

1. **Traffic Calming:** The use of traffic calming devices such as raised intersections, landscaping bulb-outs, horizontal speed bumps, and traffic circles are encouraged as alternatives to conventional traffic control measures.
2. **Curb-Return Radii:** Curb should be designed to reduce pedestrian crossing along all streets requiring sidewalks. In general, curb radii should not exceed 20 feet.
3. **Crosswalk Patterns:** Delineated crosswalks with patterned surface can be effective traffic control devices; however, they should not be used indiscriminately. It has been shown that pedestrians may develop a false sense of security regarding their use of a marked location and step into the crossing without adequately checking for oncoming vehicles. Information from the
5. **Storage Lanes:** Left- or right-turn storage lanes may be required along arterials or parkways and along entry/spine streets that provide access to a MX. The specific design of such lanes shall meet the criteria established by the Transportation Department.

9.4 Traditional Neighborhood Development (TND)

9.4.1 Purpose and Intent

- A. The TND option is designed to permit the development of land in a manner consistent with traditional neighborhoods. Its provisions adapt the urban conventions which were normal in the United States from colonial times until the 1940's. The TND ordinance prescribes the following physical conventions:
1. The neighborhood is spatially consistent and limited in size.
 2. Residences, shops, workplaces, civic buildings and parks are interwoven within the neighborhood, all in close proximity and connected by a system of sidewalks.
 3. The hierarchy, design and detailing of streets, serves equitably the needs of pedestrians, bicycles and automobiles.
 4. Carefully placed civic buildings and squares reinforce the identity of the neighborhood.
 5. Spatially defined squares and parks are distributed and designed as specialized places for social activity and recreation.
 6. Civic buildings provide places of assembly for social, cultural and religious activities, becoming symbols of community identity through their architectural clarity.
 7. Private buildings form a disciplined edge, spatially delineating the public street space and the private block interior.
 8. Architecture and landscape respond to the unique character of the region and traditional design principles with attention toward a classic sense of timelessness. Designs shall preserve the charm and unity of the neighborhood as a whole.
 9. By providing a full range of housing types and workplaces, residents of all ages are blended together, forming the bonds of an authentic community.
 10. The provision of comfortable public spaces such as streets and squares, residents may come to know each other to watch over their collective security.
 11. By bringing within walking distance most of the activities of daily living, including dwelling, shopping and working, the elderly and the young gain independence of movement.
 12. The compact layout of TND reduces the requirements for infrastructure, automobile use and traffic congestion. By organizing appropriate building densities, public transit becomes a viable alternative mode for local travel.

- B. A set of restrictive covenants and design requirements shall be established for each TND by the developer and shall be binding on all properties and their property owners.
- C. A property owners association, shall be formed to guide the growth, enforce the restrictive covenants, and preserve the unique characteristics of the TND.
- D. This section contains procedures and standards for the processing of TND's both in new subdivisions and site plan applications on large, undeveloped parcels (referred to as "Greenfield" sites), and on existing parcels surrounded by developed areas (referred to as "infill" sites)

9.4.2 TND District Described

- A. The TND district is hereby established as a special purpose district and shall be processed as a Conditional District zoning under section § 3.3.
- B. Applications for a TND district shall be classified as either (a) TND GREENFIELD (b) TND INFILL.

9.4.3. Application Procedures

- A. There are two procedures for approval of a TND:
 1. First, the applicant may seek approval of a TND district as a Conditional District re-zoning pursuant to § 3.2.8, with site design and architectural guidelines, which supplement this Section.
 2. Second, the applicant may seek approval of a TND subdivision in accordance with the guidelines set forth in this Section and Article 5. Such applications shall be labeled "TND Subdivision" and may be processed and approved in accordance with the subdivision plat approval procedures set forth in Article 5 without first seeking a rezoning to the TND District.

9.4.4 TND Greenfield

All applications for a TND Greenfield site shall comply with the following development parameters.

- A. **Size and Location of Site.**
 1. The minimum size of the site shall be forty acres and the maximum size shall not exceed 640 acres excluding areas devoted to peripheral parks, open space, and internal or peripheral greenways. Larger parcels shall be developed as multiple TNDs, each individually subject to all the provisions of this subsection. A TND may be located adjacent to, but shall not be bisected by, a thoroughfare.
 2. **The Site shall be divided into the following subareas:**
 - A. A Town Center consisting of civic, retail, office, and multi-family uses. The size of the Town Center is based on the size of the entire site (see § 9.4.4.B., below).
 - B. A Neighborhood or series of neighborhoods consisting of blended multi-family and single-family uses, small-scale Retail and workshop uses, and public outdoor gathering places. It is the intent of this

Ordinance that all areas within a Neighborhood are within a five-minute walking distance from edge to center (radius of 1320 feet).

- C. Greenway areas which provide a greenway system for the community, open space for community residents, and natural areas for stormwater management. Greenways may border and/or traverse the TND site.

B. Land Use

1. Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines. Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.
2. The following land use categories may abut at side lot lines or face across a street, square, park or common space:
 - A. Single family may abut multi-family and small scale institutional;
 - B. Multi-family may abut single-family, office, civic, institutional or retail;
 - C. Retail may abut multi-family, office, civic or institutional;
 - D. Retail uses include shops, restaurants, entertainment and lodging .
 - E. Office may abut retail, institutional, civic, or multi-family.
 - F. Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail.
 - G. Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.
 - H. Civic may about institutional, multi-family, office or retail.
 - I. Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.
3. In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.
4. Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.
5. Prohibited Uses anywhere within a TND:
 - A. Automatic food and drink vending machines placed outside;

- B. Any commercial use which encourages patrons to remain in the their automobile while receiving goods or services, except gasoline stations;
- C. Chemical manufacturing, storage or distribution as a primary use;
- D. Enameling, painting or plating, except artist's studios;
- E. Outdoor advertising or billboard as a principal use;
- F. Carting, moving or hauling terminal are yard, except delivery goods to businesses within a TND;
- G. Correctional institutions, detention centers or halfway house;
- H. Manufacture, storage, or disposal of hazardous waste materials;
- I. Scrap yards;
- J. Manufactured homes;
- K. Sand, gravel, or other mineral extraction;
- L. Kennels;
- M. Any use or business controlled under the Adult Entertainment use category;
- N. Any use which produces any of the adverse impacts defined as prohibited under the definition of light and heavy Industrial Uses.
- O. Any use listed in the I-1 and I-2 Zoning Districts of Table 7.6-1 under Manufacturing and Industrial Uses or Transportation, Warehousing and Utilities Uses, as well as the following uses listed as special uses in the I-1 district:
 - Correctional Institutions
 - Heavy Truck, RV and Semi-Trailer Rental & Leasing
 - Building Material Supply (with outdoor storage)
 - Equipment Rental & Leasing (with outdoor storage)
 - Lawn & Garden Supply (with outdoor storage)
 - LP Gas & Heating Old Dealers
 - Racetracks/Spectator Sports (includes racing test tracks)
 - Chemical, PlastiSS & Allied Products
 - Lumber & Construction Materials (with outdoor storage)
 - Metal & Pipe Supply (with outdoor storage)

C. Lots and Buildings

1. All lots shall include frontage abutting a street, square or common open space.
2. The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.
3. All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.
4. Front or side yard porches of at least eight feet in depth and 12 feet in width shall be provided on not less than 70 percent of all dwelling units within the Single-family land use allocation.
5. The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for buildings, excluding buildings which face a Park, Square or common open space (of at least 20 feet in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from face of building to face of building.) The ground floor use shall designate the ratio:
 - A. Civic, Retail, Office Uses - 1:3.5
 - B. Multi-family, 1:4
 - C. Single Family Uses shall have their building front elevation set according to a single family "Build-To" line along the frontage established on the approved TND plan . Adjacent houses shall vary their setback slightly (no more than 2 feet) so as not to perfectly align with the adjacent dwelling.

D. Retail and Office Uses

1. Retail and Office use buildings within or fronting on the Town Center shall conform to the Master Plan approved at the time of rezoning. Retail and Office Uses shall be situated on the Master Plan such that the buildings create a walkable pedestrian friendly street through building design and placement. Major changes to the building Master Plan shall be approved by the Planning and Zoning Commission.

E. Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities

1. The Connectivity Ratio set forth in the Article 10 shall apply to the TND. The street standards for TND roadways are based on proven techniques for traffic calming and acceptable levels of vehicular circulation. Streets shall be designed in accordance with the Traditional Neighborhood Development Guidelines from the N.C. Department of Transportation, Division of Highways (August, 2000 or most current edition).
2. There shall be a continuous network of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead end length of over 100 feet.
3. An on-site transit stop shall be provided where the proposed TND is within the service area of a City bus system, a Public Transportation Authority or a Regional Public Transportation Authority.
4. Sidewalks in residential areas shall be located on both sides of the street and shall be separated from the roadway by a planting strip and/or designated parallel parking. If a planting strip is provided, it shall be a minimum of 6 feet in width. Sidewalks located in the Retail/Office/Town Center area may extend from the back of curb to the buildings and/or plaza areas. Where this option is used by the developer, planting beds for trees and/or designated areas of landscaping shall be incorporated into sidewalk areas to create a “downtown streetscape”. All proposed sidewalks shall be included on the Master Plan at the time of rezoning.
5. Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in Article 11, Landscaping and Buffering. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a precaution against blight. Street trees planted within the TND commercial district or within an area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.
6. Street furnishings shall include but not limited to:

- A. Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water fountain and other appropriate decorative pedestrian oriented features.
 - B. Residential Areas: Pedestrian scale decorative street lights, decorative street signs.
7. To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage, but will be located in such a way to cause the least impact on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

F. Parking

- 1. A Parking Master Plan showing the proposed parking for the overall development shall be approved at the time of rezoning.
- 2. On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single family area) can be accommodated without additional pavement width or delineation.
- 3. On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.
- 4. For interior commercial parcels, no less than 75 percent of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major arterials may locate primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected on the frontage line where primary parking lots are located.
- 5. Primary parking lots (over 24 spaces) and parking garages shall not:
 - A. abut street intersections;
 - B. be located adjacent to squares or parks; or
 - C. occupy lots which terminate a street vista.
- 6. Adjacent parking lots shall have vehicular connections from an alley.
- 7. Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with § 10.3, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed 2,500 square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by 25 percent of any use related parking standards

established in § 10.3. On-street parking shall count toward any minimum parking requirements.

8. Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.
9. Shared parking may be used for multiple sites if a written agreement between the owners and lessees is executed for a minimum of 10 years, approved by the Administrator, and recorded at the Cabarrus County Registry with a copy maintained for the project file. A recorded subdivision final plat showing the shared parking may be submitted in lieu of the written agreement.

G. Landscaping and Buffering

1. A Landscape Master Plan shall be approved at the time of rezoning for the overall development. The Master Plan must show that the proposed landscape meets the intent of the ordinance and includes the different types of planting yards, as defined in Article 11, for each project area or parcel, whichever is applicable. In instances where the buffer width and intensity defined in Article 11 may not be appropriate, the Administrator may make reductions or adjustments as deemed necessary. However, the adjustment or reduction may not be such that it includes the deletion of any of the planting yards.
2. The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at a average center to center spacing based on the mature spread of the particular street tree.

H. Town Center

1. Land Allocation and Location. The Town Center shall have a minimum area of square foot of Town Center for each 500 square feet per of gross site area of the entire TND site (excluding Greenway areas). Commercial areas shall only be permitted where designated on the Site Plan. A town center shall be located only on a street with adequate capacity to serve it.

Example: A proposed TND has a gross site area of 300 acres, with an additional 8 acres of greenway running through the site, for a total of 38 acres?. The minimum square footage for the Town Center is 26,136 square feet (13,068,000 square feet gross site area divided by 500 square feet = square feet in Town Center).

2. Retail and Office. The character of the Town Center is primarily aimed at small-scale retail, service and office uses. However, larger anchor stores or uses may be included as part of an overall commercial package. Such proposals will be evaluated on a case-by case basis.

I. Open Space

1. The proposed development shall include at least the amount of open space as prescribed in Table 10.5.13. Open Space shall comply with the design requirements of § 10

J. TND Site Plan

1. In addition to the preliminary plat and/or conditional district re-zoning requirements specified in Articles 5 and 6, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:
 - A. layout and dimensions of lots, setbacks (build-to-lines) roadways, alleys, underground utilities, open spaces and all information required to define the relationships within the streetscape;
 - B. designated land uses and associated building heights with proposed streetscape enclosure ratios;
 - C. proposed streetscape furnishings including the pedestrian lighting plan;
 - D. proposed street tree landscape plan;
 - E. outline covenants and design codes;

K. Sign Standards

Sign standards shall be governed by Article 12 or by a Comprehensive Sign Package. The Comprehensive Sign Package shall be processed in accordance with § 6.2. The Comprehensive Sign Package must show the proposed signage for the overall development and that the proposed signage meets the intent of the Ordinance.

9.4.5 TND Infill

All applications for a TND Infill site shall comply with the following development parameters:

A. Land Allocation and Density

A single land use category, as set forth in Table 9.2-1, may be approved as a TND Infill site. The requested densities shall conform to § Table 7.6.2.A.

B. Land Use

1. Land use category may be determined from Table 9.4-1, below. Adjacent sites may count towards the land use allocation providing it falls into one the categories listed in Table 9.4-1.

(A) TND Land Use Category	(B) Zoning Category
Civic	C-1, C-2
Retail	B-1, C-1
Office	O&I ? C-2

Table 9.4-1

2. Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines (subject to § 9.4.5.C.3. below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.
3. The following land use categories may abut at side lot lines or face across a street, square, park or common space:
 - A. Single family may abut multi-family, office, and small scale institutional;
 - B. Multi-family may abut single-family, office, civic, institutional or retail;
 - C. Retail may abut multi-family, office, civic or institutional. (Retail uses include shops, restaurants, entertainment and lodging.);
 - D. Office may abut retail, institutional, civic, or multi-family.
 - E. Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail. (Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.);
 - F. Civic use may abut institutional, multi-family, office or retail. (Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are restricted to locations where their potential nuisance impacts on other land uses are less.
4. In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.
5. Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.
 - A. Prohibited Uses. (See 9.4.4.B.5)

C. Retail and Office Uses

1. Due to the limited scale of the infill TND, Retail and Office uses should be located at the edges of the TND development, but spatially well connected to the TND residential areas.

Table 9.4.5-2 Design Standards for a TND

(A) OPEN SPACE USES	(B) Minimum Land Allocation	(C) Maximum Land Allocation	(D) Minimum Floor Area Ratio (FAR)	(E) Maximum FAR	(F) Design Standards
<i>Open Space</i>	See Table 10.5-1	40% GLA	n/a	n/a	Open space should be bounded by streets on at least 25% of their perimeter.
<i>Square</i>	15,000 sq. ft.	70,000 sq. ft.	n/a	n/a	<p>Square shall count toward required open space</p> <p>A minimum ½ acre square should front or be located within the Town Center.</p> <p>Squares should adjoin streets on at least two sides.</p> <p>Squares should be distributed throughout the TND so as all dwelling units are located within 1,000 feet (walking distance) of a square.</p>
<i>Greenbelts</i>	May be provided at the perimeter of a TND if adjacent land is incompatible	n/a	n/a	n/a	<p>Greenbelts differ from other types of open space in that existing natural vegetation and wildlife is undisturbed except for bikeways and walking trails.</p> <p>Greenbelts should average at least 100 feet in width and not less than 25 feet at any point.</p>

2. Retail and Office use buildings within the TND shall conform to the standards outlined in § 9.3

D. Open Space

The proposed development shall include at least the amount of open space as prescribed in Table 10.5.13. Open Space shall comply with the design requirements of Column (F) of Table 9.2.5-2.

- E. TND Master plans shall be processed as a conditional district and processed in accordance with § 3.3.**

1. In addition to the preliminary plat and special use requirements specified in Articles 5 and 6, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:
 - A. layout and dimensions of lots, setbacks (build-to-lines) roadways, alleys, underground utilities, open spaces and all information required to define the relationships within the streetscape;
 - B. designated land uses and associated building heights with proposed streetscape enclosure ratios;
 - C. proposed streetscape furnishings including the pedestrian lighting plan;
 - D. proposed street tree landscape plan;
 - E. an outline of covenants and design codes.

F. Sign Standards

Sign standards shall be governed by Article 12 or by a Comprehensive Sign Package. The Comprehensive Sign Package shall be processed in accordance with § 6.2. The Comprehensive Sign Package must show the proposed signage for the overall development and that the proposed signage meets the intent of the Ordinance.

9.6 MANUFACTURED HOME PARK (MHP) DISTRICT

9.6.1 Purpose

The purpose of this Section is to provide sufficient land area for the provision of manufactured housing in for-lease parks in order to implement NCGS § 160D-910 and to provide affordable housing opportunities for low and moderate income persons.

9.6.2 Classification of Manufactured Homes

- A.** The following classification system is hereby adopted for purposes of this Section:
 - 1. **Manufactured Home - Type I.** A single-section manufactured home less than 17 feet in width.
 - 2. **Manufactured Home - Type II.** A multi-section manufactured home greater than or equal to 17 feet in width.
- B.** The width of a manufactured home shall be determined by mean width when all sections are in a final assembly arrangement.

9.6.3 Design and Installation Standards for Manufactured Home Parks

- A.** Each application for a manufactured home park as a Special Use Permit is there a choice shall be accompanied by a master plan. The master plan shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements that may be considered essential by the Planning and Zoning Commission. The master plan shall show how all proposed improvements will meet the following minimum standards.
- B.** The minimum land area for the entire site shall be 5 acres.
- C.** In lieu of the dimensional and density requirements of §7, Table 7.6.2.A, spaces for manufactured homes shall comply with the criteria set forth in Table 7.6.2- A and 7.6.2-B.
- D.** All manufactured home spaces shall abut upon a paved internal street not less than 24 feet in paved width exclusive of parking.
- E.** All manufactured home spaces shall be served by at least a three-foot all-weather surface sidewalk.
- F.** Four-foot wide all-weather surface sidewalks must serve all common spaces.
- G.** Two off-street paved parking spaces shall be provided for each manufactured home space.
- H.** Each manufactured home park shall have a minimum of 5 percent of the total area set aside and developed for recreational purposes. If a swimming

pool is provided, it shall be separated from other uses by a fence having a gate which is capable of remaining closed.

- I. Operators of manufactured home parks must provide adequate solid waste refuse and recycling containers. Individual roll-out containers and/or large dumpsters may be used. Dumpsters shall be located at least 40 feet from any manufactured home unit and at least 10 feet away from internal residential streets. Recycling containers shall be emptied on a regular basis and shall be the responsibility of the park operator.
- J. A manufactured home park must be served by an approved community or public water service. Approved community or public sewer shall be required.
- K. Adequate illumination shall be provided to ensure the safe movement of pedestrians and vehicles at night. Permanent buildings designed for and used by park residents shall remain illuminated to at least the level of 40-foot candles at all times.

<i>STANDARD</i>	<i>MANUFACTURED HOME TYPE I (SINGLE-SECTION)</i>	<i>MANUFACTURED HOME, TYPE II (DOUBLE-SECTION)</i>
Area of Space (square feet)	4,000	5,000
Width of Space (feet)	40	50
Depth of Space (feet)	100	100
Front Yard (in feet, measured from pavement edge of internal street to manufactured home)	20	20
Side Yard (in feet, between manufactured homes or permanent buildings)	25	25

9.7 PUBLIC INTEREST DEVELOPMENT (PID) DISTRICT

9.7.1 Purpose

It is the purpose and intent of this Section to permit the creation of Public Interest Development Districts (PID) in areas designated by the City Council as having special and substantial public interest, by virtue of unique environmental, economic, cultural, entertainment, or other characteristics or conditions not generally shared by other areas of the City. It is further intended that such districts and the regulations established therein shall be in accord with and promote the policies set forth in the City's Comprehensive Plan. Because the PID addresses situations which affect the entire region, which create intermittent or unusual impacts and public benefits, and which require flexibility in the administration of land use regulations, and in order to avoid the potential for abuse of the PID rezoning process, it is the intent of this Section that only the

existing PID districts, will be permitted within the jurisdiction of the City. The three PID districts are:

- Charlotte Motor Speedway as adopted in City Council ordinance # 99-13 that incorporated zoning case Z-37-98. The standards and provisions of the ordinance and zoning case are incorporated into this ordinance by reference as if written out herein
- Carolinas Medical Center Northeast
- Cabarrus County Arena and Events Center

9.7.2 Permitted Uses

The uses and signage permitted in a PID district shall be regulated as set forth in the PID application, as amended and approved by the Planning and Zoning Commission and/or Concord City Council. Additionally, signage/banners that have been approved through licensing agreements between Concord City Council and the property owner(s) and have received NCDOT approval are permitted.

9.7.3 Effect of PID Designation

A PID may be created as either a new district which completely replaces the existing zoning for a specific area, or may be created as an overlay district which supplements the existing underlying zoning districts. Subsequent to designation as a PID, all property within the district shall be developed in accordance with the standards of the district and other applicable requirements of the City of Concord.

9.7.4 Application of A PID Designation

Application for a PID may be initiated by the City Council or the Planning & Zoning Commission, or by the owner of a property for which a PID district is sought to be designated. Each application shall include a unique designation which clearly identifies the proposed district and shall include the information listed below:

- A. Statement of Intent specifying the nature of the special and substantial public interest involved and the objectives to be promoted by special regulations.
- B. Proposed District boundaries, including any subareas, which must include a map of the proposed district and may utilize narrative descriptions and /or other references to further define the proposed area.
- C. A statement as to whether the proposed district is a replacement district or an overlay district.
- D. Proposed regulations and/or modifications to regulations, which by virtue of the unique characteristics of the district, are appropriate and reasonable to protect the public's interest in the area.
- E. Procedures for the administration of the regulations in the district which may include processes unique to the district.
- F. A conceptual plan which depicts the general nature of the proposed district and the general distribution of the uses allowed in the district.

9.7.5 Limitations

Applications for PID classification shall only be considered for tracts larger than 25 acres, unless the petition would add land to a previously established PID.

9.8 HISTORIC PRESERVATION OVERLAY (HPOD) DISTRICTS

9.8.1 Purpose

Concord's designated historic districts, hereinafter referred to as the "districts," and historic landmarks, hereinafter referred to as "landmarks" are some of the most valued and important assets of the City of Concord, County and State; for the purpose of protecting and conserving the heritage of the City of Concord, County and State; for the purpose of safeguarding the character and heritage of the districts by preserving the districts as a whole and any property therein that embodies important elements of their social, economic, cultural, political, or architectural history; for the purpose of promoting the conservation of such districts or landmarks for the education, pleasure and enrichment of residents of the districts and the City of Concord, County and State as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the districts as a whole, thus contributing to the improvement of the general health and welfare of the City of Concord and the residents of the districts.

9.8.2 Historic District Establishment

- A. The historic districts are hereby established as districts which overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the City of Concord. The boundaries of the districts are as shown on the Official Zoning Map of the City of Concord.
- B. Historic districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance. Such districts must also possess integrity of design, setting, workmanship, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:
 - 1. An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and;
 - 2. The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the City Council within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the City Council of any responsibility for awaiting such analysis, and the City Council may at any time thereafter take any necessary action to adopt or amend its Zoning Ordinance.
- C. The City Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the Zoning Ordinance.
- D. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection (1) of this section shall be prepared by the Commission and shall be referred to the Planning and Zoning Commission for its review and comment following review by the State Historical Planning Office (SHPO). The P&Z C shall review and comment on the proposal in 60 days from the date the P&Z Commission first receives the proposal. If the Commission makes no recommendation in 60 days, the matter shall be returned to the HPC for further action, including forwarding to the City Council without a recommendation. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of subsection (2) of this section.
- E. Upon receipt of the Concord Historic Districts Handbook and recommendations, the City Council may proceed in the same manner as

would otherwise be required for the adoption or amendment of any appropriate Zoning Ordinance provisions.

9.8.3 Historic Landmark Establishment

- A.** Upon complying with the required landmark designation procedures set forth herein, the City Council may adopt and from time-to-time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.
- B.** The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.
- C.** As a guide for the identification and evaluation of landmarks, the Commission shall use: 1.) the inventory of properties of historical, prehistorical and cultural significance established by the City of Concord in conjunction with the creation of the city's historic preservation districts and 2.) nomination materials developed for successful local landmark designations. The local inventory of historic properties shall be updated at regular intervals as resources permit.
- D.** No property shall be designated as a landmark until the following steps have been taken:
 - 1.** An applicant shall submit or the Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. After review by the Historic Preservation Commission, such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
 - 2.** The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his/her designee, shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Commission within 30 days following receipt by the Department of the report, the Historic Preservation Commission, Planning and

Zoning Commission, and the City Council shall be relieved of any responsibility to consider such comments.

3. The Planning and Zoning Commission shall review and comment on the proposal in 60 days from the date the Planning and Zoning Commission first receives the proposal. If the Planning and Zoning Commission makes no recommendation in 60 days, the matter shall be returned to the Historic Preservation Commission for its review.
4. The Historic Preservation Commission shall hold a public hearing on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. Following the public hearing the Commission will forward a recommendation to the City Council regarding the proposed ordinance.
5. Following receipt of the Commission's recommendation, the City Council shall hold a public hearing on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. As a result of this hearing the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
6. Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and amendments thereto shall be filed by the Commission in the office of the Register of Deeds of Cabarrus County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Concord City Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Cabarrus County for such period as the designation remains in effect.
7. Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Commission to give notice thereof to the tax supervisor of Cabarrus County. The tax supervisor in appraising it for tax purposes shall consider the designation and any recorded restrictions upon the property limiting its use for preservation purposes.

9.8.4 Permitted Uses

The districts contain several zoning classifications. All uses permitted in any such district, whether by right or as a special use, shall be permitted in the historic districts according to the procedures established for such uses.

9.8.5 Dimensional Regulation

- A.** Structures within the historic districts shall observe the dimensions and other regulations of this Ordinance, except as follows:
- B.** No structures or part thereof shall extend nearer to or be required to be set back further from the front lot line than the average distance of the setbacks of the nearest principal buildings within 300 feet on each side of such building and fronting on the same side of the street.
- C.** Building height and setbacks shall be governed by the underlying zoning district and table 7.6.2.B.

9.8.6 Authentic Restoration or Reconstruction

Permitted Subject to Approval of Historic Preservation Commission and Planning and Zoning Commission, Although Not Complying with Dimensional Regulations.

A. Initial Approval

Where it is found by the Historic Preservation Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of a structure of historic and/or architectural significance to the historic district, such activity may be approved by the Planning and Zoning Commission, following the approval by the Historic Preservation Commission.

B. Approval Subject to Conditions

The Planning and Zoning Commission, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

C. Limitation on Approval

- 1.** The Planning and Zoning Commission shall not be authorized, in action undertaken by this section, to approve a use of property which is not a use permitted by right or as a special exception use within the district in which the property is located.
- 2.** In addition to any other condition the Planning and Zoning Commission may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the City of Concord blameless against any and all liability, cost, damage, or expense suffered by the City of Concord as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed, or maintained.

Any such item projecting over the vehicular truck way of a street or alley shall be, at its lowest point, 10 feet above the travel way.

9.8.7 Parking Waiver

Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall find that the number of off-street parking spaces required by the zoning regulations for a building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the district, it shall recommend to the Planning and Zoning Commission a waiver, in part or in whole, of the off-street parking requirements. The Planning and Zoning Commission may authorize a lesser number of off-street parking spaces, provided: (1) the Commission finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking, and (2) will not constitute a threat to the public safety.

9.8.8 Recommendations on Special Use Permit Applications

All special exception applications within the historic districts shall be reviewed by the Historic Preservation Commission at its next regular meeting after the application has been submitted in accordance with the requirements of this Ordinance. The Historic Preservation Commission shall forward its comments and recommendations within 45 days of the filing of the application. The recommendations shall be presented to the Planning and Zoning Commission which has final decision responsibility on applications for special use permits.

9.8.9 Historic Preservation Commission

Refer to § 2.5.

9.8.10 Certificate of Appropriateness

A. Required

1. From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, and pavement, or other appurtenant features) no above-ground utility structure nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished on such landmark or within the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. The municipality shall require such a certificate to be issued by the Commission prior to the issuance of a compliance permit or building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purpose of this part. A Certificate of Appropriateness shall be required whether or not a building permit or compliance permit is required. Any building permit or such other permit not issued in conformity with this section shall be invalid.
2. The City of Concord and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any

changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the City of Concord or public utility companies.

B. Procedures

1. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Planning Director. Applications for Certificates of Appropriateness shall be considered by the Historic Preservation Commission at its next regular meeting, provided they have been filed, complete in form and content, at least 28 days prior to the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting.
2. The Commission shall, by uniform rule in its Rules of Procedure, require data as are reasonably necessary to determine the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required data have been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.
3. Upon receipt of an application, the Administrator shall notify the Historic Preservation Commission at least seven calendar days before its regularly scheduled meeting.
4. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall conduct a public hearing in accordance with § 3.3. The Administrator shall be responsible for notifying the affected parties per § 1.6.
5. The Commission shall take action on the application and in doing so shall apply the Review Criteria, contained in § 9.8.11.
6. The Commission's action on the application shall be approval, approval with modifications, or disapproval.
7. Prior to final action on an application, the Commission, using the guidelines in § 9.8.11, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district.
8. The Commission shall cause to be entered into the minutes of its meeting the reasons for its action, whether it be approval, approval with modifications, or denial.
9. If the Commission fails to take final action upon any application within 180 days after the complete application is submitted to the Planning Director, the application shall be deemed to be approved.
10. If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

9.8.11 Review Criteria

A. Intent

1. It is the intention of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district or of landmarks shall be harmonious with the special character of the district or landmark. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic periods. In considering new construction, the Commission shall encourage contemporary design which is harmonious with the character of the district.
2. In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity.
3. The Commission shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of the historic district or landmark.

B. Exterior Form and Appearance

1. The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Standards then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:
 - A. lot coverage, defined as the percentage of lot area covered by primary structures;
 - B. setback, defined as the distance from the lot lines to the building(s);
 - C. building height;
 - D. spacing of buildings, defined as the distance between adjacent buildings;
 - E. exterior building materials;
 - F. proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
 - G. surface textures;
 - H. roof shapes, forms and materials;

- I. use of local or regional architectural traditions;
 - J. general form and proportions of buildings and structures, and relationship of any additions to the main structure;
 - K. expression of architectural detailing, such as lintels, cornices, brick bond, and foundation materials;
 - L. orientation of the building to the street;
 - M. scale, determined by the size of the units of construction and architectural details in relation to the size of man and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
 - N. proportion of width to height of the total building facade;
 - O. archaeological sites and resources associated with standing structures;
 - P. appurtenant fixtures and other features such as lighting;
 - Q. structural condition and soundness;
 - R. walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
 - S. ground cover or paving;
 - T. maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement;
 - U. color (new construction only and not for existing residences); and
 - V. effect of trees and other landscape elements.
2. The Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for Certificates of Appropriateness.
- C. Interior arrangement or design shall be exempt from review by the Historic Preservation Commission. Interior construction and/or reconstruction shall not require a Certificate of Appropriateness.

9.8.12 Certain Changes Not Prohibited

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, alteration, restoration, or demolition of any such feature which the Building Inspector, Zoning Enforcement Officer or similar official shall certify in writing to the Commission is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent (a) the maintenance, or (b) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure with approval by the Commission.

9.8.13 Delay In Demolition

- A.** An application for a Certificate of Appropriateness authorizing the demolition, removal, or destruction of a designated landmark or a building structure or site within a historic district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner should suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure, or site. If the Commission finds that a building, structure, or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.
- B.** In the case of action initiated by the City, the application for such a certificate will first be reviewed by the Commission and secondly by the City Council for final order of demolition or removal. The Commission shall consider the Housing Code Officer's inspections and recommendations for demolition or removal of the building or structure.
- C.** If the Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district and the final designation has not been made by the City Council, the demolition or destruction of any building, structure, or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the City Council takes final action on the designation, whichever occurs first.

9.8.14 Application Review by Commission

As part of its review procedure, the Commission may view the premises and seek the advice of the Department of Cultural Resources or other expert advice as it may deem necessary under the circumstances.

9.8.15 Appeal of Decision

- A.** In any action granting or denying a Certificate of Appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.
- B.** Written notice of the intent to appeal must be sent to the Commission, postmarked within 30 days following the decision. Appeals shall be in the nature of certiorari. The Superior Court of Cabarrus County shall hear appeals of decisions of the Board of Adjustment.
- C.** The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision with 30 days from the date that a notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the State and the Commission.

9.8.16 Compliance

- A.** The Administrator shall enforce compliance with the terms of the Certificate of Appropriateness. Failure to comply with a Certificate of Appropriateness shall be a violation of the Zoning Ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of six months shall be considered as a failure to comply with a Certificate of Appropriateness.
- B.** Nothing contained in this Ordinance shall prohibit, impair, or limit in any way the power of the City Council to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic Districts in violation of the provisions of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (See General Statute 160D-404(c).

9.9 Airport Overlay (AOD) District

9.9.1 Purpose

This district is established to prevent the creation or establishment of obstructions or land uses that are hazards to air navigation, thereby protecting the lives and property of the users of the Concord Regional Airport, the property and occupants of land in the vicinity and the public investment in the airport. This district is further intended to provide for the safe landing, take-off, and maneuvering of aircraft in accordance with Federal Aviation Administration (FAA) standards.

9.9.2 Location

The AO Overlay District shall overlap and overlay the base zoning districts. The former City of Concord Airport Overlay District (AO) designated pursuant to the former City of Concord Zoning Ordinance § 790, is hereby designated as the AO Overlay District. Said overlay district may be expanded by adding additional land area from time to time by an amendment to this Ordinance.

9.9.3 Principal and Accessory Uses

Permitted principal uses, special uses and accessory uses shall be those within the underlying zoning district as set forth in Table 8.1.7, provided that no use shall be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport.

9.9.4 Use Restrictions

Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport.

9.9.5 Area Regulations

Dimensional requirements such as lot size and building depth shall be governed by the underlying zoning districts. Height requirements shall be governed by the General Development Standards § 9.9.6, but in no event shall the height of any structure exceed the maximum height permitted by the underlying zoning district.

9.9.6 General Development Standards

In order to carry out the provisions of these regulations, there are hereby created and established within the Concord Regional Airport certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones and conical zones, as they apply to the more restrictive height limitation. Such zones are shown on the Official Concord Regional Airport Hazard Zoning Map which is attached to these regulations and made a part hereof. An area located in more than one of the following zones shall be subject to the Airport Overlay District. The various zones are hereby established and defined in Column (B) of Table 9.5-1. Except as otherwise provided in these regulations, no structure or tree shall be erected, altered, allowed to grow or be maintained in any of the zones created by these regulations to a height in excess of the applicable height limit herein established for such zone. Unless otherwise specified, the height shall be measured from mean sea level. Such applicable height limitations are hereby established for each of the zones in Column (C) of Table 7.13-1.

Table 9.5-1

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
PRECISION INSTRUMENT RUNWAY APPROACH ZONE	The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.	Slopes upward 50 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line, then at a slope of 40:1 for an additional 40,000 feet.
LOCAL BUFFER APPROACH ZONE	The extent of this zone coincides with the PRECISION INSTRUMENT RUNWAY APPROACH ZONE as described above.	Uses shall not exceed the maximum height specified for the PRECISION INSTRUMENT RUNWAY APPROACH ZONE less ten (10) feet on southern approach only. Uses encroaching into this zone shall be allowed only as special uses, and shall not be constructed, erected, or otherwise established unless and until a special use permit has been issued.
TRANSITIONAL ZONES	These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90-degree angles to the runway center line and the runway center line extended a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90-degree angles to the extended runway center line.	Slopes upward and outward seven feet horizontally for each foot vertically beginning at all the sides of and at the same elevation as the primary surface and the approach zones and extending to a height of 150 feet above the airport elevation, or 840 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones and extending to where they intersect the conical surface. Where the precision instrument run approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface and extending to a horizontal distance of 5,000 feet from the edge of the approach surface measured at 90-degree angles to the extended runway center line.

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
HORIZONTAL ZONE	The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connection the adjacent arcs by drawing lines tangent to those arcs	One hundred fifty feet about the airport elevation or a height of 840 feet above mean sea level.
CONICAL ZONE	The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.	Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or 1.040 feet above mean sea level.

9.9.7 Nonconforming Uses

- A. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration which was begun prior to the effective date of these regulations, and is diligently prosecuted.
- B. No zoning clearance permit shall be granted that would allow the expansion of a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of these regulations when the application for a permit is made.
- C. Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no zoning clearance permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- D. Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Administrator after consultation with the Concord Regional Airport Aviation Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the City of Concord.

9.9.8 Public Notification of Potential Aircraft Noise Impacts

Public notification of the potential aircraft noise impacts made to prospective purchasers of property within the Airport Overlay District shall be made in

accordance with the provisions of this subsection.

- A.** Where public notification statements are required or provided for property within the district, the following statement shall be used: "This property is located within the City of Concord Airport Overlay District and is subject to aircraft over flights and to aircraft noise that may be objectionable dependent upon the use and location of the property."
- B.** In accordance with the N.C. Residential Property Disclosure Act (NCGS 47E), all owners of property and their agents shall provide a public notification statement to all prospective purchasers through a written disclosure statement.
- C.** A public notification statement shall appear on the recorded final plat for all subdivisions and approved site plans for residential development of land within the district. In addition, the developer/owner shall provide public notice to all prospective dwelling unit purchasers through a written disclosure statement.

9.10 Copperfield Boulevard Corridor Overlay (CBCOD) District

9.10.1 Purpose

This district is established to provide flexibility for nonresidential-zoned areas that abut established residential neighborhoods along Copperfield Boulevard. The district shall function to flexibly limit the uses which have undesirable characteristics of smoke, odor or noise emission, storage of hazardous materials, high traffic generation, or other characteristics which may adversely affect the aesthetic appearance of the area, or the health, safety, and general welfare of nearby residents, or motorists traveling through the area. The Copperfield Boulevard Corridor Overlay District shall overlap and overlay existing zoning districts.

9.10.2 District Boundaries

The boundaries of the Copperfield Boulevard Corridor Overlay shall be that which is displayed on the Official Zoning Map for the City of Concord. The boundaries of the Copperfield Boulevard shall be those of the former Use Restricted Overlay District (UROD) as adopted on the 11th day of February, 1993.

9.10.3 Permitted Uses

Permitted uses and/or Special Uses shall be those within the underlying zoning districts and is listed in Table 8.1.8, except that the following uses shall be prohibited within the CBCOD as established by Ordinance on the 11th day of February, 1993: Accessory Uses shall be those permitted in the underlying zoning districts as set forth in § 8.4.

Use

Animal Services, except Veterinary
Automobile Repair Shops
Car Washes
Cemeteries
Coin Operated Amusement Devices
Contractors, General Building and Special Trade (with outside storage only)
Drycleaning Plants, Except Rug Cleaning
Heavy Construction Equipment Rental and Leasing
Industrial Launderers
Karate and JCDO Instruction
Miscellaneous Repair Services (of any item not sold on the premises)
Mobile Homes on Individual Lots
Mobile Home Parks
Motorcycle Sales
Multifamily
Pawn Shops
Rehabilitation Hospitals: Drug Addiction and Alcoholism
Reupholstery and Furniture Repair
Self-storage and Mini-warehousing (self-service storage facilities)
Taxicab Stands and Operations

Dimensional Regulations

All dimensional regulations shall be governed by the underlying zoning district as set forth in Table 7.6.2.

9.10.5 Off-Street Parking/Loading and Vehicular Access

Standards for off-street parking/loading spaces and vehicular access areas shall be determined by the minimum requirements as set forth in Article 8.

9.10.6 Sign Regulations

Sign shall be regulated in accordance with the standards set forth in Article 12.

9.10.7 Landscaping and Buffering

Standards for landscaping and buffering areas shall be determined by the minimum requirements as set forth in Article 11.

9.11 Low Impact Development (LID)

The use of LID site design techniques is encouraged in residential and non-residential development throughout the City of Concord. LID is encouraged by allowing innovative site design and flexibility in combination with traditional means of controlling stormwater runoff.

9.11.1 Purpose

The goal of the LID Zoning Overlay is to develop site design techniques, strategies, Best Management Practices (BMPs), and other criteria to store, infiltrate, evaporate, transpire, retain, and detain storm water runoff on the site to replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site. Because multiple aspects of site development impact the hydrologic response of the site, LID runoff control techniques also can address many aspects of site development. There is a wide array of impact reduction and site design techniques that allow the site designer to create storm water control mechanisms that function in a similar manner to natural control mechanisms. The net result is to resemble as closely as possible, the site's pre-development hydrology by preserving and/or recreating the watershed's natural hydrologic functions or water balance between runoff, infiltration, storage, ground water recharge, and evapotranspiration. With the LID approach receiving waters experience little change in the volume, frequency, or quality of runoff or in the base flows fed by ground water and precipitation. Specifically, LID is designed to:

- A.** Promote storm water management practices that maintain pre-development hydrology through site design, site development, building design and landscape design techniques that infiltrate, filter, store, evaporate and detain storm water close to its source;
- B.** Protect natural resources, particularly streams, lakes, wetlands, floodplains and other natural aquatic systems on the development site and elsewhere from degradation that could be caused by construction activities and post-construction conditions;
- C.** Protect other properties from damage that could be caused by storm water and sediment during construction activities and post-construction conditions on the development site, while insuring that detention measures do not negatively effect the overall hydrology of the site;
- D.** Reduce and disperse, throughout the site, the storm water from impervious surfaces such as streets, parking lots, rooftops and other paved surfaces, and minimize the storm water's impact on the environment;
- E.** Protect public safety by minimizing flooding and stream bank erosion, reduce public expenditures in removing sediment from stormwater drainage systems and natural resource areas, and to prevent damage to municipal infrastructure caused by inadequate stormwater controls; and
- F.** Complement and assist in implementing Article 4 (Environmental/Land Disturbing Activities) and the City's current Phase 2 National Pollution Discharge Elimination System (NPDES) Stormwater Permit and NCGS §143-215.1 et seq.

9.11.2 Grading and Clearing Prohibited Without Prior Approval

No land disturbance shall occur on a site proposed for an LID project prior to its approval. Proposed LID projects on recently cleared land shall demonstrate hydrology comparable to its pre-cleared status.

9.11.3 Development Types and Processing Procedures

LID developments meeting the standards of this Article shall be allowed by right without a rezoning, provided that the proposed uses and densities/intensities are permissible within the underlying zoning district.

9.11.4 Procedures for LID Approvals

LID projects shall be reviewed by the Development Review Committee (DRC) and processed as a conventional project. Prior to formally submitting an application, the applicant shall schedule a pre-application meeting with the Administrator and the Stormwater Services Director and/or their designees. This meeting is intended to review the proposed development, review the applicable standards and agree upon the methodology and guidelines for review of the proposed development, and to determine preliminary compliance with the LID standards. Additionally, as part of the pre-application, a meeting on-site shall occur. This meeting is intended to allow the staff to become familiar with the specific site relative to the physical features, and to determine preliminary compliance with the guidelines.

9.11.5 Low Impact Development Stormwater Management Application Materials

For all LID projects, the following information shall be presented on a plan or plans drawn to scale with supporting documents and technical details as necessary. This information may also be incorporated into a preliminary subdivision plat or site plan, as required by Article 5.

- A.** An existing condition site assessment providing baseline information on features including slope profiles showing existing gradients, soil types, tree canopy and other vegetation, natural water bodies, wetlands and sensitive natural communities, and site features that aid in stormwater management including natural drainage ways and forested and vegetated lands located on stream and wetland buffers.
- B.** A site plan illustrating the proposed development of the subject property.
- C.** A conceptual erosion and sediment control plan that incorporates accepted management practices as required by the State of North Carolina.
- D.** A conceptual stormwater management plan identifying the limits of grading, clearing and construction disturbance area and demonstrating that stormwater runoff is minimized through the use of natural drainage systems and on-site infiltration and treatment techniques. The plan (or supporting materials) shall also demonstrate how the proposed post-development hydrology of the site compares with the pre-development hydrology. The plan shall demonstrate that the soils best suited for infiltration (if any are present) are retained and that natural areas consisting of tree canopy and other vegetation are preserved, preferably in contiguous blocks or linear corridors where feasible, for protection of the best stormwater management features identified in the site assessment. The plan

shall also clearly indicate proposed tree protection zones necessary to protect the root systems from construction traffic.

- E. Additional information deemed necessary by the Administrator and/or the Stormwater Services Director as a result of the pre-application meeting.
- F. For reference purposes and technical guidance, the applicant shall refer to “Low Impact Development – A Guidebook for North Carolina,” published in June 2009 (as amended) by the North Carolina Cooperative Extension.

Specific components of the above application materials shall be prepared by an expert team consisting of (but not limited to) a number of following professionals, licensed to practice in the State of North Carolina (as applicable): Architect, Landscape Architect, Civil Engineer, Land Surveyor, Land Planner, Biologist, or Botanist.

9.11.6 General Requirements

- A. The use of LID design approaches is required and shall be implemented to the maximum extent practical given the site’s soil characteristics, slope, and other relevant factors.
- B. All applications for development are subject to Sections 4.2 (Water Supply Source Watershed Protection) and 4.4 (Stormwater Control) and to the following post-construction stormwater management standards and guidelines to ensure that stormwater management approaches that maintain natural drainage patterns and infiltrate precipitation are utilized to the maximum extent practical. Additionally, all LID projects shall meet all minimum standards of the Concord Development Ordinance, unless specified otherwise in Section 9.11. LID projects are also subject to the National Pollution Discharge Elimination System (NPDES) Phase II Stormwater Permit issued by the State of North Carolina.
- C. Construction of all stormwater control measures and devices shall be in accordance with the most recent edition of “The Division of Water Quality Stormwater Best Management Practices Manual” (NCDENR Stormwater BMP Manual). Maintenance of stormwater control measures and devices shall be governed by Section 4.4.6.

9.11.7 Specific Requirements

One main feature of Low Impact Development is that the post-construction condition mimics the natural hydrologic functions of infiltration, runoff and evapotranspiration. LID projects are required to demonstrate compliance with the following specific requirements.

A. Stormwater Analysis

Each application for LID shall include an engineering analysis that compares the pre-development and post-development hydrology of the site. This analysis shall demonstrate that the post-development volume of runoff, infiltration and evapotranspiration for each site substantially matches pre-development volumes

of runoff, infiltration and evapotranspiration. Specifically, the analysis shall include the pre-development water balance (annual runoff, infiltration, and evapotranspiration volumes or percentages) and post-development water balance (annual runoff, infiltration, and evapotranspiration volumes or percentages.) For the purposes of this Section, substantially similar shall be defined as being within five percent (5%) of the hydrologic fate values for mature forest as illustrated in Table 9.11.8 for residential projects and within fifteen percent (15%) for nonresidential projects.

Table 9.11.8 – Hydrologic Fate for Rainfall in Mature Forested Conditions - Piedmont Region

Hydrologic Fate	
Evapotranspiration	69%
Infiltration	29%
Runoff	3%

Source: "Low Impact Development: A Guidebook for North Carolina- 2009"

B. Compliance With NPDES Phase II Permit

The application materials shall demonstrate compliance with all requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Stormwater Permit, issued by the State of North Carolina, including, but not limited to the following:

1. LID development may be permitted as low density projects if it meets the following criteria:
 - A. No more than two dwelling units per acre or 24% built-upon area;
 - B. Use of vegetated conveyances to the maximum extent practicable;
 - C. All built-upon areas are at least 30 feet landward of perennial and intermittent surface waters; and
 - D. Deed restrictions and protective covenants acceptable to the City are required by the locally issues permit and incorporated by the development to ensure that subsequent development activities maintain the development (or redevelopment) consistent with the approved plans.

2. High density LID projects shall meet the following criteria;
 - A. Either more than two dwelling units per acre or the total built upon area is more than 24% within a single project area or master planned area;
 - B. The stormwater control measures must control and treat the difference between the pre-development and post-development conditions for the 1-year 24 hour storm. Runoff volume drawdown time must be a minimum of 24 hours, but not more than 120 hours;
 - C. All structural stormwater treatment systems must be designed to achieve 85% average annual removal of total suspended solids;
 - D. Stormwater management measures must comply with the General Engineering Design Criteria For All Projects requirements listed in 15A NCAC 2H.1008(c);
 - E. All built-upon areas are at least 30 feet landward of perennial and intermittent surface waters; and

F. Either more than two dwelling units per acre or the total built upon area is more than 24% within a single project area or master planned area;. Deed restrictions and protective covenants acceptable to the City are required by the locally issued permit and incorporated by the development to ensure that subsequent development activities maintain the development (or redevelopment) consistent with the approved plans.

C. Compliance with Low Impact Development Design Standards and Guidelines

Standards are statements that express the development and design intentions of this bylaw. The guidelines suggest a variety of means by which the applicant might comply with the standards. The guidelines are intended to aid the applicant in the design process and the City of Concord when reviewing applications. Options for compliance with the standards are not limited to the guidelines listed and alternative standards that meet the intent of the Ordinance and aid in achieving the required post-development hydrologic balance specified in Section 9.11.8 (A) may be considered by the Administrator and the Stormwater Director. These options shall be clearly stated in the application materials, and will be reviewed with the applicant at the pre-application meeting.

Proposed LID projects shall demonstrate substantial compliance with the following four sets of standards. It is recognized that some of these individual guidelines are applicable either only to single family residential or commercial/multifamily development. It is also recognized that each individual guideline may not be feasible or necessary to comply with each standard and to achieve the hydrologic balance specified in Section 9.11.8(A). Additionally, all LID projects shall meet the minimum requirements of Article 4.

Standard 1: Vegetation and Landscaping

Vegetative and landscaping controls that intercept the path of surface runoff shall be considered as a component of the comprehensive stormwater management plan.

Guideline 1.1. Utilize two-track surfaces with grass in-between drive aisles for driveways, “turf-stone” type pavers and pervious asphalt/concrete systems for overflow parking areas or shoulders, and landscape medians within roads, parking lots and other drivable or walkable surfaces to provide for water infiltration.

Guideline 1.2. Design parking lot and roadway landscaping to function as part of the development’s stormwater management system utilizing vegetated islands with bioretention functions.

Guideline 1.3. Incorporate existing natural drainage ways and vegetated channels within street rights-of-way and parking areas, as an alternative to standard concrete curb and gutter configuration to decrease flow velocity and allow for stormwater infiltration, and direction to the appropriate drainage areas on site, as applicable.

Guideline 1.4. Divert water from the majority of downspouts on each structure

away from driveway surfaces and into bioretention areas, rain gardens or other devices (such as rain barrels or cisterns) to capture, store, and infiltrate stormwater on-site, for future landscape watering. This guideline shall be clearly specified on the site plan/subdivision plat, and shall be indicated on the plot plan prior to issuance of a zoning clearance permit.

Guideline 1.5. Utilize vegetative LID stormwater controls (bioretention, swales, filter strips, buffers) as specified in Section 4.43, on land held in common.

Standard 2: Development on Steep Slopes

Development on steep slopes equal to or in excess of 25% shall be sited and constructed, and slopes stabilized to minimize risks to surface and ground waters and to protect neighboring properties from damage. For the purposes of these regulations, slope shall be calculated as a ratio of horizontal distance to vertical distance, multiplied by one hundred (100). In instances where the property contains distinct sections of differing slope, the slope of each distinct section may be calculated separately. Calculation of slope will be discussed at the on-site meeting with staff that is required as part of the pre-application process.

Guideline 2.1. Minimize development, re-grading and clearing of vegetation on land where the slope is greater than 25%.

Guideline 2.2. Encourage development of home sites, subsurface sewage systems and parking areas on the flattest portion of the site, provided that the flattest portion of the site is not environmentally sensitive, such as a 100 year floodplain, floodway or wetland.

Guideline 2.3. Minimize crossing steep slopes with roads and driveways and lay them out to follow topographic contours in order to minimize soil and vegetation disturbance.

Standard 3: Reduce Impervious Surfaces

Stormwater shall be managed through land development strategies that reduce impervious surface areas such as streets, sidewalks, driveway and parking areas and roofs.

Guideline 3.1. Evaluate the minimum widths of all streets and driveways to demonstrate that the proposed width is the narrowest possible necessary to conform to safety and traffic concerns and requirements. For local streets right of ways in the range of forty (40) feet wide should be considered with as little as eighteen (18) foot wide road cross sections, provided that these sections have a minimum passable way of twenty (20) feet with reinforced shoulders. Alternatives to typical curb and gutter should be considered and curb and gutter should be eliminated altogether, as feasible on a case by case basis. Any other minimum rights-of-way widths and pavement/gravel widths will be evaluated for other type

of cross section classifications as well. Design for specific terrain classifications shall be consistent with the most recent version of the North Carolina Department of Transportation (NCDOT) Subdivision Manual. If the right-of-way width is not sufficient for utilities placement, additional easements may be necessary elsewhere on the site. Sidewalks may be permitted on only one side of new streets. When pedestrian areas are provided in an alternate location, they should be constructed of permeable materials.

Guideline 3.2. Reduce the total length of residential streets by utilizing some of the following design principles: reducing lot widths by incorporating narrower housing styles and utilizing “flag lots” or “pie-shaped lots”, shared driveways and access easements to reduce total lot frontage. Maximum driveway widths may also be reduced on a case-by-case basis. New developments shall meet the minimum connectivity ratio required in Section 10.2.6 (Street Connectivity Requirements), unless exempted as specified in Section 10.2.6(F).

Guideline 3.3. Minimize the number of residential street cul-de-sacs and incorporate vegetated islands (as common open space) to reduce total impervious cover. The radius of cul-de-sacs should be the minimum required to accommodate emergency and maintenance vehicles. Consider alternative turn-around areas that require less impervious area, such as “hammerheads”. Rain gardens (vegetated depressions) should be considered in the vegetated islands, and shall be constructed below the subgrade in order to prevent failure of the road structure.

Guideline 3.4. Reduce driveway lengths on a case-by-case basis by reducing or eliminating front building and side yard setbacks. Reduced setbacks shall be considered at the time of site plan or preliminary plat approval and shall be part of the approval of the zoning overlay.

Guideline 3.5. Utilize shared driveways for multiple building sites, and construct driveways only to the minimum width permitted for the specific use, as specified in the Technical Standards Manual (TSM).

Guideline 3.6. Use permeable pavement or gravel for parking stalls, sidewalks, driveways and bike/pedestrian trails. Overflow parking (facilities with more than the minimum number of spaces, but less than the maximum number of spaces specified in Section 10.3) and parking for assembly uses shall also utilize permeable pavement or turf.

Guideline 3.6. Design impervious areas that are “disconnected” or non-contiguous that minimize transfer of stormwater from one

impervious area to another, in order to more efficiently disperse stormwater throughout the site.

Guideline 3.7. Utilize shared parking for uses with different peak demand periods. Maximum parking limits shall apply, in accordance with Section 10.3 (Parking and Loading)

Guideline 3.8. Reduce building footprints by building more than one habitable floor level, and when possible, construct buildings to the maximum permissible building heights. Buildings may also be constructed with parking inside of the building footprint by placing some or all of the living space over the parking.

Guideline 3.9. Maximize retention of vegetative cover by grading and clearing only enough land area to accommodate the individual building footprints and street networks. The general areas of grading, clearing and vegetation retention shall be indicated on the conceptual grading and clearing plan. Grading and clearing on individual lots shall be reviewed at the time of permit issuance to insure reasonable compliance with the conceptual grading and clearing plan.

Standard 4: Low Impact Integrated Management Practices (LIMPs)

Stormwater shall be managed through the use of small-scale controls to capture, store and infiltrate stormwater close to its source. All stormwater controls shall be compliant with Article 4, the most recent version of "The Division of Water Quality Stormwater Best Management Practices Manual" (NCDENR Stormwater BMP Manual) and the National Pollution Discharge Elimination System (NPDES) Phase II Stormwater Permit issued by the State of North Carolina.

Guideline 4.1. Create vegetated depressions, commonly known as bioretention areas or rain gardens that treat runoff from storms of one inch or less and collect runoff and allow for short-term ponding and slow infiltration. Utilize drainage swales as an alternative to standard curb and gutter.

Guideline 4.2. Locate dry wells consisting of gravel or stone-filled pits to catch water from roof downspouts or paved areas.



Guideline 4.3. Use filter strips or bands of dense vegetation planted immediately downstream of a runoff source to filter runoff before it enters a receiving structure or water body. Natural or man-made vegetated riparian buffers adjacent to water bodies provide erosion control, sediment filtering and habitat. Utilize level spreaders and plunge pools to disperse water throughout the site in lieu of discharge into a single point source.

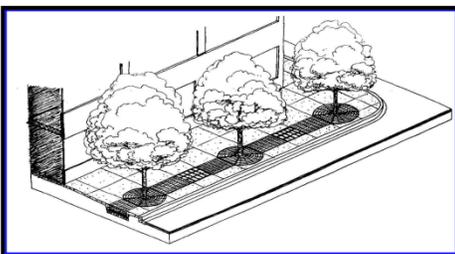


Guideline 4.4. Utilize shallow grass-lined channels to convey and store runoff.

Guideline 4.5. As an option, incorporate rooftop gardens which partially or completely cover a roof with vegetation and soil or a growing medium, planted over a waterproofing membrane. It is recognized that rooftop gardens will not be feasible in every proposed LID project.

Guideline 4.6. Use rain barrels and cisterns of various sizes that store runoff conveyed through building downspouts, for future use for landscape watering. Rain barrels or cisterns shall be utilized on greater than fifty percent (50%) of the overall number of downspouts within the project. Rain barrels are generally smaller structures, located above ground. Cisterns are larger, often buried underground, and may be connected to the building's plumbing or irrigation system. The areas of the site or lots where rain barrels and cisterns shall be utilized shall be indicated on the conceptual plans. At the time of permit application for individual structures, the locations shall be specifically indicated on the required plot plan.

Guideline 4.7. Evaluate soils on the site post-grading, and if necessary, amend in areas of proposed planting by adding minerals, pea gravel and organic materials to increase its capacity to properly drain, while still being able to absorb moisture and sustain vegetation. The commitment to evaluate the soils shall be placed on the preliminary site plan / subdivisions plat and the soil evaluation information shall be provided to the staff prior to, or during submission of construction plans. It is recommended that amended soils be re-tested annually and re-amended as necessary.



Guideline 4.8. Utilize tree box filters placed below grade, covered with a grate, filled with filter media and planted with a tree, to act both as a water retention tank and a natural filter.

Guideline 4.9. Utilize numerous and smaller detention and retention areas dispersed throughout the site, in lieu of larger detention and retention areas, in order to encourage a balance of infiltration and evapotranspiration throughout the site.

9.11.9 Tree Protection Guidelines

- A. The clustering of existing trees and native vegetation should be incorporated into all LID site and building designs in order to protect natural and environmentally sensitive areas, open spaces, trees vegetation, natural terrain

and drainage. Retained trees shall be credited towards the minimum landscaping and buffering requirements specified in Article 11. All retained trees that are proposed to be credited toward meeting the minimum requirements of Article 11 shall be clearly identified by species and size on the proposed site plans. Individual trees located within areas that are not proposed to be credited toward meeting the requirements of Article 11 are not required to be identified by species and size.

- B. Clearing of trees on the site shall be the minimum necessary to support construction of the streets and infrastructure, and the driveways and building pads for each structure. The areas of tree removal shall be clearly indicated on the overall site plan for the development, and on subsequent site plans submitted for individual permits.
- C. Removed trees exceeding ten (10) inches diameter at breast height (dbh) shall be replaced at a rate of one-half inch for each inch removed, within the overall project boundary, provided that such replacement practice meets acceptable horticultural and forestry standards. To the greatest extent possible, replacement trees shall be native trees, as illustrated in Table 9.11.11. Alternate species may be substituted upon the approval of the Administrator, provided that evidence is submitted as to their appropriateness. Areas where replacement trees are proposed shall be clearly indicated on the project site plan and on subsequent site plans submitted for individual permits. In lieu of conducting an inventory of individual trees to be removed at the initial site plan stage, the inventory may be conducted during the construction plan stage.
- D. In order to provide maximum design flexibility in subdivision development, replacement trees may be transferred to a different parcel (or proposed parcel) from where trees were removed, provided they are planted within the overall project boundary.
- E. Tree save areas established in accordance with Article 11 may be used to fulfill the guidelines and requirements of this section.

9.11.10 Recommended Plants

LID projects have a potentially wide range of growing conditions throughout a site, including rain garden areas which alternate between wet and dry, detention and retention pond areas which will have predominately moist soils and individual building sites, which are generally well-drained. Soil types may also vary greatly within a project boundary. As a result, a wide variety of plants can be considered for LID projects based upon the above factors.

Suggested plants for LID projects are illustrated in Table 9.11.11. Many of these plants are native to the region and most are available at local nurseries. Other species may be substituted upon approval of the Administrator, provided that evidence is submitted as to their appropriateness.

The specific plant species selected should be suited to the specific environment. For example, drought tolerant plants should be selected for rain garden areas, and plants that tolerate extended periods of flooding should be selected for detention areas.

The type and placement of plants shall also be consistent with the “The Division of Water Quality 2007 Stormwater Best Management Practices Manual” (NCDENR Stormwater BMP Manual), as amended.

Table 9.11.10
Trees

American Holly – <i>Ilex opaca</i>	Persimmon – <i>Diospyros virginiana</i>
Blackjack Oak – <i>Quercus marilandica</i>	L.
Black Cherry – <i>Prunus serotina</i>	Post Oak – <i>Quercus stellata</i>
Blackgum – <i>Nyssa sylvatica Marsh</i>	Red Cedar – <i>Juniperus virginiana</i>
Black Walnut – <i>Juglans nigra</i>	Red Maple – <i>Acer rubrum</i>
Black Willow – <i>Salix Nigra</i>	River Birch – <i>Betula nigra</i>
Butternut Hickory – <i>Carya cordiformis</i>	Sassafras – <i>Sassafras albidum</i>
Button Bush – <i>Cephalanthus occidentalis</i>	Shumard Oak – <i>Quercus shumardii</i>
Dogwood – <i>Cornus</i>	Silky Dogwood – <i>Cornus amomum</i>
Flowering Dogwood – <i>Cornus Florida</i>	Southern Red Oak – <i>Quercus</i>
Green Ash – <i>Fraxinus pennsylvanica</i>	<i>falcate</i>
Holly – <i>Ilex spp.</i>	Sugarberry – <i>Celtis laevigata Willd.</i>
Hop Tree – <i>Ptelea trifoliata</i>	Swamp Chestnut Oak – <i>Quercus michauxii</i>
Ironwood or American Hornbeam – <i>Carpinus caroliniana</i>	Swamp Cottonwood – <i>Populus heterophylla</i>
Laurel Oak – <i>Quercus laurifolia</i>	Swamp Tupelo – <i>Nyssa biflora Walt</i>
Mulberry – <i>Morus rubra</i>	Sweet Gum – <i>Liquidambar styraciflua</i>
Overcup Oak – <i>Quercus lyrata</i>	Sycamore – <i>Platanus occidentalis</i>
	Tulip Tree – <i>Liriodendron tulipifera</i>
	Water Oak – <i>Quercus nigra</i>
	White Oak – <i>Quercus alba</i>
	Willow Oak – <i>Quercus phellos</i>
	Winged Elm – <i>Ulmus alata</i>

Small Trees and Shrubs

Alder– *Alnus serrulata*
American Snowbell – *Styrax grandifolius*
Arrowwood – *Viburnum dentatum*
Beautyberry Bush – *Callicarpa Americana*
Blackberry – *Rubus spp.*
Button Bush – *Cephalanthus occidentalis*
Carolina Willow – *Salix caroliniana*
Chokeberry – *Aronia arbutifolia*
Deciduous Holly or Possumhaw–
Ilex deducua
Doghobble or Fetterbush –
Leucothoe racemosa
Eastern Sweet Shrub –
Calycanthus floridus
Elderberry – *Sambucus*
canadensis
Groundsel– *Baccharis halimifolia*
Inkberry – *Ilex glabra*
Pawpaw - *Asimina triloba*

Pinxterflower or Wild Azalea –
Rhododendron periclymenoides
Red Buckeye – *Aesculus pavia*
Red Chokeberry – *Aronia arbutifolia /*
photiania pyrifolia
Silky Dogwood– *Cornus amomuma*
Spicebush – *Lindera benzoin*
Tag Alder – *Alnus serrulata*
Umbrella Tree – *Magnolia tripetala*
Virginia Creeper – *Parthenocissus*
quinquefolia
Virginia Sweet Spice – *Itea virginicus*
Virginia Willow or Sweetspire – *Itea*
virginica
Water Ash – *Fraximus caroliniana*
Wax Myrtle – *Myrica cerifera*
Winterberry – *Ilex verticillata*
Witch Hazel – *Hamamelis virginiana*

Herbaceous Plants

Alumroot – *Heuchera americana*
American Three-Square – *Scirpus*
americanus
Annual Rye– *Lolium annua*
Aromatic Thoroughwort – *Eupatorium*
hyssopifolium
Arrow Arum- *Peltandra virginica*
Arrowhead– *Sagittaria latifolia atamasco*
Aster – *Aster pilosus*
Atamasco Lily - *Zephyranthes*
Beaked Panicum – *Panicum anceps*
Panicum clandestinum
Big Bluestem – *Andropogon gerardii*
Bladder Sedge – *Carex intumescens*
Black Eyed Susan or Orange
Coneflower – *Rudbeckia fulgida*
Blue-Eyed Grass – *Sisyrinchium*
mucronatum var. mucronatum
Blue Flag– *Iris virginica*
Blue Star – *Amsonia tabernaemontana*
var. salicifolia, Blue Star
Bluets – *Houstonia caerulea*

Jewelweed – *Impatiens capensis*
Joe Pye Weed– *Eupcetomum fistulosum*
Lance-Leaved Tickseed – *Coreopsis*
lanceolata
Lizards Tail– *Saurus cernuus*
Little Bluestem – *Schizachyrium scoparium*
Little Joe – *Eupatorium dubium*
Little Sweet Betsy – *Trillium cuneatum*
Lizard's Tail – *Saururus cernuus*
Lobelia – *Lobelia puberula*
Lyre-Leaved Sage – *Salvia lyrata*
Lurid Sedge – *Carex lurida*
Marsh Mallow or Swamp Rose Mallow –
Hibiscus moscheutos
Marsh Marigold– *Bidens spp.*
May-Apple – *Podophyllum peltatum*
Meadow-Beauty – *Rhexia mariana*
Meadow Violet – *Viola papilloinacea*
Narrowleaf Mountainmint – *Pycnanthemum*
etnuifolium
New York Aster – *Aster novi-belgii (L.)*
Nesom

Boneset– <i>Eupatorium perfoliatum</i>	Obovate Barbara’s Buttons – <i>Marshallia obovata</i> var. <i>obovata</i>
Bottle Brush Sedge – <i>Carex comosa</i>	Panic Grass – <i>Panicum scoparium</i>
Brompus sp.	<i>Panicum stipitatum</i>
Brushy Broomsedge- <i>Andropogon glomeratus</i>	Passionflower – <i>Passiflora incarnate</i>
Bulrush – <i>Scirpus atrovirens</i>	Pickerel Rush or Pickerelweed – <i>Pontederia cordata</i>
Cardinal Flower – <i>Lobelia cardinalis</i>	Plume grass – <i>Erianthus contortus</i>
Canada Lily – <i>Lilium canadense</i> ssp. <i>editorium</i>	Royal Fern – <i>Osmunda regalis</i>
Carolina Crane’s Bill – <i>Geranium carolinianum</i>	Rush – <i>Junus effuse</i>
Common Arrowhead or Duck Potato – <i>Sagittaria latifolia</i>	Scarlett Swamp Hibiscus – <i>Hibiscus coccineus</i>
Coreopsis spp. – <i>Coreopsis</i>	Sedge – <i>Carex</i> spp.
Daisy Fleabane – <i>Erigeron strigosus</i>	Skullcap – <i>Scutellaria integrifolia</i> var. <i>eintegrifolia</i>
Dog Fennel – <i>Eupatorium capillaries</i>	Soft or Common Rush – <i>Juncus effusus</i>
Dwarf St. John’s Wort – <i>Hypericum mutilum</i>	Soft Stem Bulrush – <i>Scirpus validus</i>
Dwarf Spike-Rush – <i>Eleocharis parvula</i>	Spring Beauty – <i>Claytonia virginica</i>
Eustis Lake Beardtongue – <i>Penstemon australis</i>	Spiderwort – <i>Tradescantia ohensis</i>
Forget-Me-Not – <i>Myostosis verna</i>	Spotted St. John’s Wort – <i>Hypericum punctatum</i>
Foxtail Grass – <i>Setaria geniculata</i>	Spring Ladies’ Tresses – <i>Spiranthes vernalis</i>
Fringed Sedge – <i>Carex crinita</i>	St. John’s Wort – <i>Hypericum</i> spp
Foxtail Grass – <i>Setaria</i> spp.	Sundrops – <i>Oenothera fruticosa</i> and <i>perennis</i>
Gamma Grass – <i>Tripsacum dactyloides</i>	Swamp Milkweed– <i>Asclepias incarnate</i>
Goldenrod – <i>Solidago altissima</i>	Sweet Flag or Calamus – <i>Acorus calamus</i>
Green Arrow Arum – <i>Peltandra virginica</i>	Switch Grass– <i>Panicum virgatum</i>
Grassleaf Rush – <i>Juncus biflorus</i>	Turtleheads – <i>Chelone glabra</i>
Hibiscus– <i>Hibiscus moscheutos</i>	White-Top Sedge – <i>Dichromena colorata</i>
Hop Sedge – <i>Carex lupulina</i>	White Turtlehead – <i>Chelone glabra</i>
Ironweed – <i>Vernonia noveboracensis</i>	Wild Rose – <i>Rosa carolina</i>
Indian Grass – <i>Sorghastrum nutans</i>	Wild Rye Grass – <i>Elymus virginicus</i>
Jack-In-the-Pulpit – <i>Arisaema thyphyllum</i>	Venus’ Looking-Glass – <i>Specularia biflora</i>

9.11.11 Invasive Exotic Plants

The following plants are not recommended for use within LID projects. These are plants that reproduce exponentially, compete with native species for resources and threaten the biodiversity of the ecosystem.

Vines

Chinese Wisteria (*Wisteria sinensis*)
 English Ivy (*Hedra helix*)
 Japanese Honeysuckle (*Lonicera japonica*)
 Japanese Wysteria (*Wisteria floribunda*)
 Kudzu (*Pueraira montana*)
 Periwinkle (*Vinca* spp.)
 Porcelain Berry (*Ampelopsis brevipedunculata*)

Grasses

Bamboo (*Bambusa spp.*)

Running Bamboo (*Phyllostachys spp.*)

Shrubs

Autumn Olive, Silverberry (*Elaeagnus spp.*)

Honeysuckle – Fragrant, Amur, Morrow's, Standish's, Tartarian, Dwarf (*Lonicera fragrantissima, maackii, morrowii, standishii tatarica, xylosteum*)

Multiflora Rose (*Rosa multiflora*)

Nandina, Sacred Bamboo (*Nandina domestica*)

Privet, Chinese and Japanese (*Ligustrum spp.*)

Rose of Sharon (*Hibiscus syriacus*)

Trees

Empress/Princess Tree (*Paulownia tomentosa*)

Mimosa (*Albizia julibrissi*)

9.12 Residential County Originated (R-CO) District

9.12.1 Purpose

The R-CO District is established in order to assign zoning to residential subdivisions that are annexed into the City, which do not meet the minimum lot standards of the other City residential zoning districts. The R-CO district is established to allow the flexibility in lot dimensions, where there are no alternatives using City of Concord zoning districts that would allow the dimensions of the lots located in the said development. This zoning district will allow developments such as these to transition from Cabarrus County zoning to City of Concord zoning and avoid non-conforming lots. The City intends only to apply this zoning to recently annexed subdivisions and does not intend to accept applications to rezone any property to R-CO.

9.12.2 Dimensional Requirements

The dimensional requirements for each particular R-CO district shall be determined by the recorded final plat. In the event that the plat does not specify minimum dimensional requirements, the properties shall comply with the requirements specified in Tables 7.6.2 A and 7.6.2 B.

9.12.3 Permitted Uses

Uses permitted in each particular R-CO district shall be governed by the recorded final plat, as applicable. In the event that the recorded final plat does not specify permitted uses, the permitted uses shall be those allowed by the Cabarrus County Zoning Ordinance in effect at the time of annexation into the City of Concord and/or as listed in the City of Concord ordinance of zoning map amendment adopted by the City pursuant to N.C. Gen. Stat. 160D-605 and 160D-701 through 160D-703 and any subsequent zoning map amendments.

9.13 CONSERVATION SUBDIVISIONS (CS) DISTRICT.

9.13.1 Intent.

Conservation subdivisions provide the opportunity for property owners to achieve more efficient development than can be achieved through conventional development, while retaining significant open areas that may be used for agriculture, forestry or environmental purposes.

9.13.2 Purposes.

This ordinance is adopted for the following purposes:

- A.** To guide the future growth and development consistently with the comprehensive plan;
- B.** To guide site analysis to plan appropriate areas for development and conservation;
- C.** To preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources;
- D.** To preserve scenic views by minimizing views of new development from existing roads;
- E.** To preserve prime agricultural land by concentrating housing on land that has low agricultural potential;
- F.** To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community. Active recreation areas are intended to be located on previously cleared lands to minimize new clearing of wooded land;
- G.** To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups;
- H.** To provide buffering between residential development and non-residential uses;
- I.** To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors;
- J.** To preserve significant archaeological sites, historic buildings and their settings; and
- K.** To meet demand for housing in a rural setting.

9.13.3 Applicability and Compliance.

The conservation subdivision district may be applied to all development within the Conservation Residential District identified in Concord's Land Use Plan. The number of new parcels that can be created shall be consistent with the density established in the Central Area Plan as modified herein. The CS district is a site plan controlled district that requires Planning and Zoning Commission review and approval of the preliminary plat.

9.13.4 Definitions

(Conservation subdivision definitions are illustrated in **Figure 9.13-1**).

- A. Common open space.** Undeveloped land within a conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots. It shall be substantially free of structures but may contain historic structures and archaeological sites including Native American mounds, and/or such recreational facilities for residents or drainage fields as indicated on the approved development plan.
- B. Conservation easement.** The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open or wooded state, precluding future or additional development.
- C. Conservation subdivision.** A housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of the land are maintained to the greatest extent possible, illustrated in Figure 9.13-2.
- D. Development envelopes.** Areas within which grading, lawns, pavement and buildings will be located.
- E. DBH.** (Diameter at Breast Height) – diameter of trees measured at 4.5 feet above grade.
- F. Forest.** Stands of trees greater than 8" DBH covering at least 2,500 square feet of the proposed development.
- G. Gross acreage.** The total area of a parcel prior to creation of the conservation subdivision.
- H. Homeowners association.** A community association incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or facilities.
- I. Nonprofit conservation organization.** Any charitable corporation, charitable association or charitable trust (such as a land trust), the

purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

9.13.5 Application Procedure and Approval Process

Conservation subdivisions shall be approved through the following general process, which is more fully described below:

Step 1: Meet with the Planning Department (may be combined with site visit)

Step 2: Inventory and mapping of existing resources for the site, including the identification of primary and secondary conservation areas

Step 3: Calculate development potential based on the applicable density

Step 4: Prepare a concept map of the conservation subdivision for staff review and recommendations

Step 5: Submit the concept plan and preliminary plat for review through the conventional subdivision process with the exception that Planning and Zoning Commission approval of preliminary plat shall be required.

Figure 9.13-1: Conservation Subdivisions: Definitions

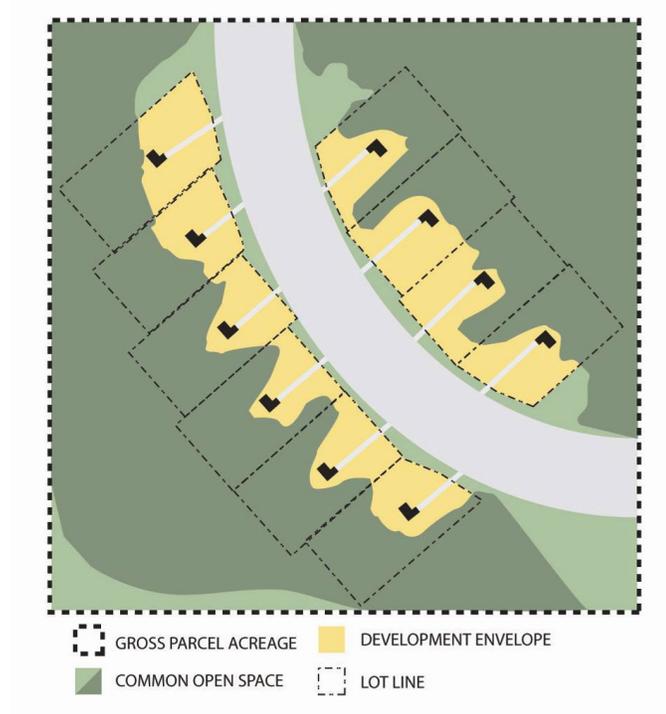
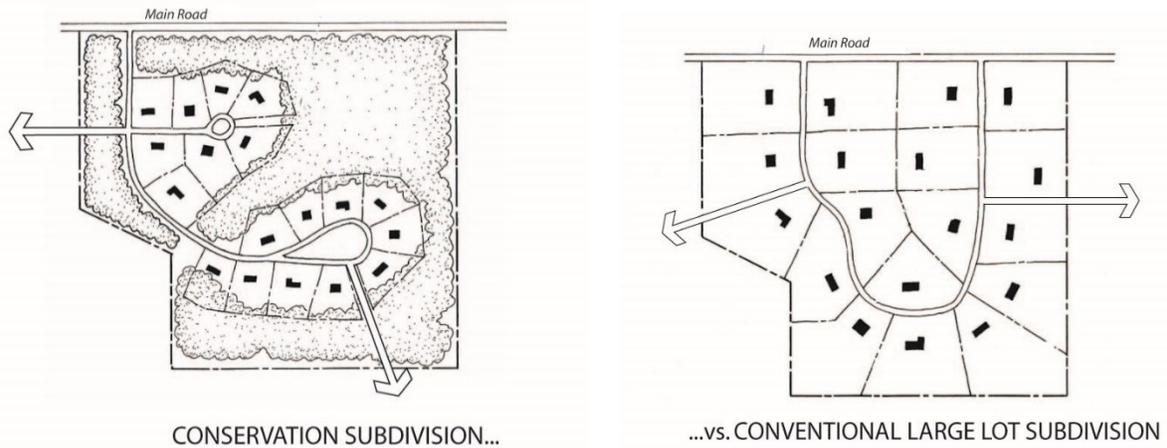


Figure 9.13-2: Conservation Subdivisions: Design



A. Initial Conference.

Before submitting an application for a conservation subdivision, the applicant shall schedule an appointment and meet with the Planning Department to discuss the procedure for approval of a conservation subdivision, including submittal requirements and design standards. This initial conference may also include the Engineering Department and Arborist. After the initial conference, the subdivider shall submit a series of maps and descriptive information to the Planning Director according to the following. Mapping for the initial application can be done in any combination of features if individual map components can be distinguished and the relationship between map components can be determined. The initial conference may be conducted in coordination with a site visit.

- B.** Inventory and mapping of existing resources including the following mapped at a scale of no less than one inch 50 feet:
1. Topographic contours at 2-foot intervals.
 2. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems.
 3. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, natural swales, drainage ways, and steep slopes.
 4. Land cover on the site, according to general cover type (pasture, woodland, etc.) trees with a caliper of more than thirty-two (32) inches measured four and one-half (4.5) feet off the ground. The inventory shall include comments on the health and condition of the vegetation.
 5. Current and past land use, all buildings and structures on the land, cultivated areas, brownfields, waste sites, and history of waste disposal practices, paved areas, and all encumbrances, such as easements or covenants.
 6. Known critical habitat areas for rare, threatened or endangered species.
 7. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
 8. Unique geological resources, such as rock outcrops.
 9. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archeological features. This includes a review of existing local, state and national inventories for historic buildings, archaeological sites, and burial sites.
- C.** Site analysis and concept plan. Using the inventory provided in subsection 9.13.5B and applying the design standards specified in 8.1.1.D. of this ordinance, the subdivider shall submit a concept plan and site analysis on one or more sheets that shall include at least the following information at a scale of no less than one inch to fifty (50) feet and shall be reviewed in accordance with City subdivision regulations for sketch plans:

1. Open space areas indicating which areas are to remain undeveloped and trail location.
2. Boundaries of areas to be developed and proposed general street and lot layout.
3. Number and type (e.g., single family detached, town home, etc) of housing units proposed.
4. Proposed methods for and location of water supply, stormwater management, water quality and sewage treatment.
5. Inventory of preserved and disturbed natural features and prominent views.
6. Preliminary building envelopes showing areas for lawns, pavement, buildings,
7. Proposed methods for ownership and management of open space.
8. General location map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.
9. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the subdivider.
10. Location, width, and names of all existing platted streets and rights-of-way to a distance of 100 feet beyond the site.
11. The type, width and condition of street improvements; railroad or major utility rights-of-way; parks and other public open spaces; location and widths of existing trails; and permanent buildings and structures to a distance of 100 feet beyond the site, if any.
12. Location, widths, and names of all existing public and private easements to a distance of 100 feet beyond the site.
13. Name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.
14. Topographic data including contours at vertical intervals of not more than two feet.
15. Identification of sensitive land preservation areas and common open spaces.
16. Existing soil classifications, including hydric soils.
17. Legal description of the property.

18. Existing zoning classifications for land in and abutting the subdivision.
19. Total acreage of the proposed site.
20. Graphic scale, north arrow, and date.

D. Subdivision Design Features.

The following information shall be included with the Preliminary Plat submittal in addition to other preliminary plat information:

1. Layout of proposed streets, showing right-of-way widths, types of improvements, street surface widths, and proposed street names.
2. Locations and type of proposed public easements (i.e. drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.
3. Layout of proposed blocks and lots within the plat.
4. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
5. Minimum front, side and rear yard building setback lines for all lots.
6. Indication of the use of any lot.
7. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.
8. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of 100 feet beyond the site.
9. Development envelopes showing areas for grading, lawns, pavement and buildings.
10. Open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
11. Management plan for restoration and long-term management of the open space areas.

E. Requirements for Design and Improvements.

1. **Primary Conservation Areas.** The following lands shall be retained as common open space unless the applicant

demonstrates that this provision would constitute an unusual hardship or be counter to the purposes of this article:

- A. The 100-year floodplain
 - B. Stream buffers
 - C. Slopes above 25 percent of at least 5,000 square feet contiguous area
 - D. Wetlands
 - E. Habitats of endangered or threatened species
 - F. Archaeological sites, cemeteries and burial grounds
 - G. Existing forests of at least one contiguous acre, containing five trees or more per acre measuring 32"DBH
2. **Secondary Conservation Areas.** The following are considered Secondary Conservation Areas and shall be included in the retained common open space to the maximum extent feasible.
- A. Important historic sites, structures or features
 - B. Existing forests of at least one contiguous acre
 - C. Individual existing healthy trees greater than eight (8) inches caliper
 - D. Significant natural features and scenic viewsheds such as ridgelines, peaks and rock outcroppings and scenic pastures, meadows and hedgerows
 - E. Prime agricultural lands of at least five contiguous acres
 - F. Existing trails that connect to adjacent areas

9.13.6 Performance Standards

A. General

1. Tree preservation standards shall consider the entire development area rather than being applied upon a lot-by-lot basis.
2. Grading plans shall show all finished floor or pad elevations, general and individual lot drainage patterns and other information to assure compliance with City stormwater management and water quality standards.

B. Residential Lot Requirements

1. Minimum lot sizes shall comply with the RC zoning district standards (see Section 7.6).

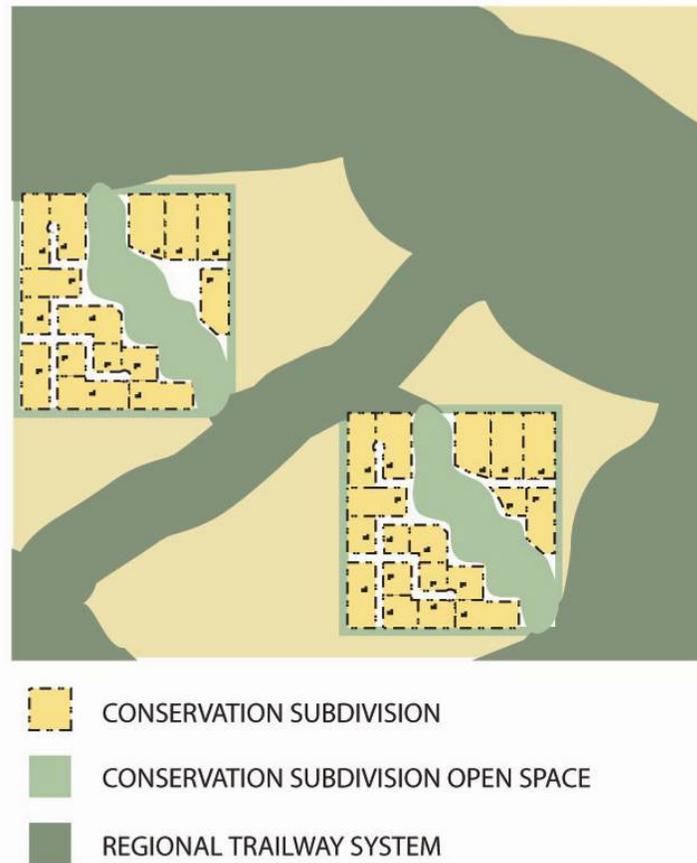
2. Setbacks shall be consistent with the RC zoning district, except as modified through the subdivision approval process.
3. All lots shall take access from interior streets. Existing farmsteads to be preserved may have a driveway as part of the historic landscape that does not access a local street.
4. At least 80 percent of residential lots shall abut common open space.
5. Lots shall be configured to minimize the amount of road length required for the subdivision.
6. Building lots shall be configured to minimize loss of woodlands.
7. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
8. Building lots should not be located along public roads peripheral to the development or in other visually prominent areas.
9. Residential structures shall be oriented to maximize solar gain in the winter months.
10. A thirty (30) foot native vegetation buffer shall be maintained around ponds and lakes, grassed areas dams, maintenance easements and other areas approved by the City. All development shall comply with the minimum requirements of Article 4.
11. Stormwater and water quality management shall comply with State and City standards. Conservation subdivisions shall minimize the use of curb and gutter and maximize the use of open swales.

C. Residential Siting Standards

1. Residences shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
2. Residences shall avoid encroaching on rare, threatened or endangered species habitats.

3. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and with local or regional recreational trails and the City's Greenways Plan, as illustrated in Figure 9.13-4.
4. Residences shall be located and designed to achieve the following goals, to the extent practicable:
5. Minimize impacts to prime farmland soils and large tracts of land in agricultural use and avoid interference with normal agricultural practices.
6. Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.
7. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
8. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
9. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
10. Landscaping around residential areas may be necessary to reduce off site views of residences.

Figure 9-13.4: Conservation Subdivision Standards: Open Space Connectivity



D. Density determination within the Conservation Subdivision District.

To promote the retention of open space, the density ranges established in the following table shall apply to development within the conservation subdivision zoning districts that retains open space **or** agricultural land. Agricultural land shall be limited to limited to pasture or crop production, with the exception that a single homestead may be retained on any agricultural tract encompassing 20 or more acres. Land retained as open space or limited to agricultural uses shall be designated as a separate parcel or parcels on the subdivision plat and shall be protected by conservation easement. If an existing homestead is retained on an agricultural tract, it shall not be counted when calculating the gross density of the conservation subdivision. The sliding density scale for the Conservation Subdivision District is established in **Table 9.13-1**.

Table 9.13-1: Open Space Sliding Scale

Maximum Gross Density¹	Minimum Percentage of Gross Acreage Retained for Open Space, Pasture or Crop Production²	Sample Development (100 Acre Site),
2.5 dwellings per acre	50%	250 Lots 50 Acres Open Space
2 dwellings per acre	40%	200 Lots 40 Acres Open Space
1dwelling per acre	30%	100 Lots 30 Acres Open Space

Table Notes:

(1) Gross density is the number of dwellings divided by the total number of acres within the boundaries of the subdivision.

(2) Not more than 50 percent of required open space shall be comprised of primary or secondary conservation areas.

E. Sewage and Water Facilities

1. Water for a conservation subdivision shall be provided by the City's water system.
2. All conservation subdivisions shall be served by the City's sewer system.

F. Connectivity Standards. Conservation subdivisions shall have at least two access points that provide connections to distinct roadways and/or an adjacent development. The Planning and Zoning Commission may approve the use of a stubbed out road for future connection as a secondary access if the subdivision has fewer than 50 residences.

9.13.7 Ownership and Maintenance of Open Space and Common Facilities

A. Alternatives. The designated common open space and common facilities may be owned and managed by one or a combination of the following:

1. A homeowners' association.
2. A non-profit conservation organization.
3. Public dedication to the City (upon agreement by the City).
4. An individual who will use the land for open space or agricultural purposes allowed by the conservation easement.

B. Homeowners' Association. A homeowners association shall be established if the common open space is proposed to be owned by a

homeowners association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association shall be submitted for approval to the City as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association shall contain the following information:

1. The legal description of the common land;
 2. A description of common facilities;
 3. The restrictions placed upon the use and enjoyment of the lands or facilities;
 4. Persons or entities entitled to enforce the restrictions;
 5. A mechanism to assess and enforce the common expenses for the land or facilities (e.g., utility systems, private roads and other public or quasi-public improvements) including upkeep and maintenance expenses, real estate taxes and insurance premiums;
 6. A mechanism for resolving disputes among the owners or association members;
 7. The conditions and timing of the transfer of ownership and control of land facilities to the association;
 8. Any other matter the developer deems appropriate.
- C. A Nonprofit Conservation Organization.** If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to the City. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance and shall not preclude the ability for the City to extend utilities within that area in the future, if necessary.
- D. Public Dedication of Open Space and Streets.** The City may at its discretion accept the dedication of fee title or dedication of a conservation easement to the common open space. The City may accept the common open space provided that:

1. The common open space is accessible to the residents of the City and part of the Comprehensive Parks and Recreation Master Plan or Open Space and Connectivity Analysis. (OSCA)
 2. The City agrees to and has access to maintain the common open space.
 3. Streets or other public ways which have been designated on a duly adopted official map or element of the comprehensive plan shall be dedicated or reserved by the subdivider to the City. The street or public way shall be made a part of the plat in the locations and dimensions indicated in the comprehensive plan and as set forth in this ordinance.
- E. Individual Ownership.** An individual may hold fee title to the land while a nonprofit or other qualified organization holds a conservation easement uses for the common open space.

9.13.8 Management Plan.

Every conservation subdivision must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any storm water and water quality facilities. A management plan shall not be required for land that is retained for pasture or crop use. The plan shall be approved by, the City prior to final plat approval.

- A.** The plan shall do the following:
 1. Designate the ownership of the open space and common facilities.
 2. Establish necessary regular and periodic operation and maintenance responsibilities.
 3. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 4. Include a land stewardship plan specifically focusing on the long-term management of common open space lands, and describing:
 5. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape.
 6. The proposed end state for each common open space area; and the measures proposed for achieving the end state.
 7. Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion;

and measures for restoring historic features and habitats or ecosystems.

- 8.** The operations needed for maintaining the stability of the resources, including: stormwater management facilities; mowing schedules; weed control; planting schedules; clearing and cleanup; at the City's discretion, the applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one year.
- B.** In the event that the organization established to own and maintain the open space and common facilities, or any successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition upon the residents and owners of the open space and common facilities, setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Section, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The City may enter the premises and take corrective action.
- C.** Management plans can be amended by the owner with the approval of the City.

9.14 NEIGHBORHOOD INFILL RESIDENTIAL (NRD) DISTRICT.

9.14.1 Intent.

This district is intended to allow for the efficient development and redevelopment of housing in underutilized areas. Neighborhood infill standards provide the opportunity for property owners to achieve more efficient urban-type development that can be achieved through conventional suburban development. These standards provide for a range of different infill housing types that may be deemed appropriate in particular geographic areas on a case-by-case basis.

9.14.2 Purposes.

This ordinance is adopted for the following purposes:

- D.** To guide the future growth and development consistently with the comprehensive plan;
- E.** To guide site analysis to plan appropriate areas for development of higher density residential development;
- F.** To provide for compatible development of housing on underutilized properties by allowing for additional review of individual projects on a case-by-case basis;
- G.** To ensure availability of adequate infrastructure for development on smaller parcels;
- H.** To ensure that adequate on-street and/or off-street parking and safe vehicular movement is provided;
- I.** To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups;
- J.** To provide buffering adjacent to lower density residential uses; and
- K.** To meet demand for varied housing types in an urban setting.

9.14.2 Applicability and Compliance.

The NRD district may be applied only to land designated as Urban Neighborhood by the 2030 Land Use Plan. The NRD district is a site plan-controlled district that requires Planning and Zoning Commission review and approval.

9.14.3 Definitions

- A. Cottage Home:** A site-built single-family detached dwelling not exceeding 1,500 square feet of heated floor area, meets applicable requirements of the North Carolina State Building and Housing Codes, and is placed on a permanent foundation.

- B. **Cottage Home Development:** A neighborhood consisting of cottage homes, either on individually platted lots or on one parcel, sharing driveways, common areas, site improvements and amenities.
- C. **Tiny Home:** A site-built single-family detached dwelling not exceeding 600 square feet of heated floor area, meets applicable requirements of the North Carolina State Building and Housing Codes, and is placed on a permanent foundation. A tiny home that is located on the same lot as a principal dwelling unit is an accessory dwelling unit.
- D. **Tiny Home Development:** A neighborhood consisting of tiny homes, either on individually platted lots or on one parcel, sharing driveways, common areas, site improvements and amenities.

9.14.4 Application Procedure and Approval Process

NRD developments shall be processed as a conditional district zoning amendment (with a site plan required) and shall follow the procedures established in Section 3.2.

9.14.4.1 Development Types

Following are specific development standards applicable to different types of development that are deemed appropriate as infill projects.

A. Tiny Homes

1. Tiny home developments are permissible subject to the following dimensional requirements. A tiny home that is located on the same lot as a principal dwelling is an accessory dwelling unit (See Section 8.3.3.C). A tiny home on wheels is considered a recreational vehicle and is permissible only as a temporary dwelling in accordance with other applicable sections of this ordinance.

Feature	Minimum Requirement
Maximum Density	18 units per acre
Minimum Street Frontage (overall parcel)	50 feet on a public street
Minimum Lot Size (overall parcel)	10,000 sf
Maximum Lot Size (overall parcel)	2 acres
Minimum number of dwellings	4
Maximum number of dwellings	18

Maximum lot size (if subdivided)	4,000 sf
Minimum lot size (if subdivided)	None
Maximum floor area	600 sf
Minimum lot width (if subdivided)	None
Minimum setback from public street	10 feet
Minimum front setback	5 feet ¹
Minimum side setback	5 feet ²
Maximum building height	2 stories
Minimum open space	30 percent of overall tract
Perimeter buffer	8' type A (see Section 11.4.2. Must be within common space and cannot lie within an individual platted lot)

1. Minimum distance from front lot line, or from common area/vehicular access if individual units are not subdivided.

2. Ten (10) feet is required between units if the individual units are not subdivided.

2. Tiny homes may be developed either on individually platted lots or within one overall parcel.
3. Each development shall provide common elements and site improvements for the benefit of each dwelling unit. These elements shall include a central green or common area and a pedestrian network that connects to public sidewalk.
4. Parking shall be provided at a rate of 2 spaces per unit and may be provided within an individual driveway and/or within a common parking area. To the greatest extent possible, parking shall be located either on the side or rear of the homes, or under the home, if elevated.
5. Low Impact Development (LID) measures for stormwater treatment are encouraged.
6. Sixty percent (60%) of all individual lots or dwellings shall front the common open space. Common open space shall be provided at a rate of 350 square feet of area for each dwelling.
7. Common areas may include an amenity structure.
8. Each development shall be served by a privately maintained shared drive at least 20 feet in width. including proper access easements for the benefit of all dwellings.
9. Developments shall be designed in order to adequately accommodate solid waste collection at the public street.

10. Tiny home developments proposing individually platted lots shall follow the subdivision process detailed in Article 5.

B. Cottage Homes

1. Cottage home developments are permissible only subject to the following dimensional requirements.

Feature	Minimum Requirement
Maximum Density	18 units per acre
Minimum Street Frontage (overall parcel)	50 feet on a public street
Minimum Lot Size (overall parcel)	15,000 sf
Maximum Lot Size (overall parcel)	2 acres
Minimum number of dwellings	4
Maximum number of dwellings	18
Maximum lot size (if subdivided)	5,000 sf
Minimum lot size (if subdivided)	None
Maximum floor area	1,500 sf
Minimum lot width (if subdivided)	20 feet
Minimum setback from public street	10 feet
Minimum front setback	5 feet ¹
Minimum side setback	5 feet ²
Maximum building height	2 stories
Minimum open space	30 percent of overall tract
Perimeter buffer	8' type A (see Section 11.4.2. Must be within common space and cannot lie within an individual platted lot

1. Minimum distance from front lot line, or from common area/vehicular access if individual units are not subdivided.

2. Ten (10) feet is required between units if the individual units are not subdivided.

2. Cottage homes may be developed either on individually platted lots or within one overall parcel.

3. Each development shall provide common elements and site improvements for the benefit of each dwelling unit. These elements shall include a central green or common area and a pedestrian network that connects to public sidewalk.
4. Parking shall be provided at a rate of 2 spaces per unit and may be provided within an individual driveway and/or within a common parking area. To the greatest extent possible, parking shall be located either on the side or rear of the homes, or under the home if elevated.
5. Low Impact Development (LID) measures for stormwater treatment are encouraged.
6. Sixty percent (60%) of all individual lots or dwellings shall front the common open space. Common open space shall be provided at a rate of 350 square feet of area for each dwelling.
7. Common areas may include an amenity structure.
8. Each development shall be served by a privately maintained shared drive at least 20 feet in width, including proper access easements for the benefit of all dwellings.
9. Developments shall be designed in order to adequately accommodate solid waste collection at the public street.
10. Cottage home developments proposing individually platted lots shall follow the subdivision process detailed in Article 5.

ARTICLE 10

DEVELOPMENT AND DESIGN STANDARDS

Summary: This Article provides additional information on development and design standards including lot design standards, street improvement standards, parking and loading, and private driveway provisions. This Article also sets forth requirements for open space standards, which, depending on the location, may either be privately owned or maintained, or owned or maintained by the City.

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10.1 LOT DESIGN STANDARDS

10.1.1. PURPOSE OF SITE DESIGN STANDARDS

This Section establishes standards to guide the design and review of proposed developments involving the layout or development of lots and relationship to streets and other public facilities.

10.1.2. MINIMUM LOT STANDARDS

A. The provisions of this section shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for in Article 5.

B. Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (see § 7.6) and buffer yards (see Article 11) will exist on the lot.

10.1.3. BLOCKS

The purpose of this subsection is to discourage long blocks lined with homes and other buildings, which reduces street connectivity and diminishes the efficiency of public and safety services, while increasing distances between residences and non-residential destinations or public gathering places. The maximum length of any blocks within a subdivision shall not exceed that as shown in Table 10.1-1 (a dash [-] indicates that the requirement is not applicable). Block length shall be measured from the centerline of an intersecting street to the centerline of the next intersecting street or the center point of the terminus of the street.

Table 10.1-1 Block Length Requirements

Zoning District	Maximum Length
AG, RE	-
RM-1, RM-2, RV, RC	1,000 feet ¹
RL, B-1, CC, C-1, C-2	1,800 feet
I-1, I-2	-
PUD, TND	1,500
MX	600 feet ²

1. See Section 7.7.2 for additional requirements and exemptions for streets with structures on only one (1) side (also known as single-loaded streets).

2. See Sections 9.1 and 9.3.14 for additional requirements relative to mixed use districts.

10.1.4. CORNER LOTS

Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

- A. run at right angles to the right-of-way line, or
- B. in the case of cul-de-sacs or curvilinear street right-of-ways, radial to the curve.

10.1.5. LOT FRONTAGE REQUIREMENTS

- A. Unless otherwise permitted herein, every lot resulting from a subdivision of land as provided for in Article 5 shall abut and have direct access to an improved, publicly maintained street or

other public right-of-way legally dedicated), except as provided in this Section.

B. For proposed subdivisions with frontage on a thoroughfare street, the maximum number of lots to be created shall be limited to five lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.

C. Frontage on a public street shall not be required in the following situations; provided, however, that an easement providing access to the public street shall be recorded and substituted with the application for development approval:

1. Parcels within nonresidential subdivisions;
2. Town home lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the town home lots;
3. Lots fronting on approved private streets;

D. Lots shall be designed with adequate frontage for the purpose of providing direct physical access to the property from public streets for vehicles and utilities and for public safety equipment.

10.1.6. FLAG LOTS

Flag lots may be developed on a limited basis in subdivisions where individual development of each lot is contemplated and the Administrator determines that no future street access through the property will be needed. Flag lots may be used to better use irregularly shaped properties or sites with physical limitations, or to eliminate or reduce access to a thoroughfare or collector street. Flag lots shall not be permitted in any proposed Subdivision except as provided for in this Section.

A. The maximum number of flag lots shall be set forth in Table 10.1-2, where the Administrator finds that the flag lot(s): (1) allow for the more efficient use of irregularly shaped parcels of land, or (2) where the integrated nature of multiple buildings on a site dictates the need for such lots.

Table 10.1-2 Maximum Number of Flag Lots

Size of Subdivision	Maximum Number of Flag Lots
2-20 lots	1 flag lot
Over 20 lots	1 flag lot per every 20 lots

- B. Table 10.1-2 does not apply to the AG District. Flag lots shall not be limited in the AG District.
- C. The Administrator may approve additional flag lots if evidence is presented that physical hardships prevent development of land using conventional lot design.
- D. The minimum width of the “pole” portion of a flag lot shall be 25 feet for residential lots and 30 feet for non-residential lots.
- E. The “pole” portion of the lot shall have maximum length not to exceed 250 feet.

10.1.7. CUL-DE-SAC LOTS

A lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:

- A. lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet; and
- B. lot area equal to or greater than the minimum lot area (if one is specified); and
- C. the minimum required lot width at the building line.

10.1.8. PERIMETER BUFFER YARD FOR RESIDENTIAL SUBDIVISIONS (MAJOR SUBDIVISIONS ONLY)

- A. A buffer yard shall be required along the perimeter of a residential subdivision in order to separate residential lots from:
 - 1. abutting a thoroughfare; and
 - 2. abutting non-residential uses.
- B. The buffer yard for abutting non-residential uses shall be designed and landscaped per § 11.4. The buffer yard for abutting a thoroughfare shall be a Type D buffer as set forth in Table 11.4-2.

- C. All required buffer yards shall be platted as common areas and may be included as “open space” subject to the standards and criteria as set forth in § 6.5.

10.1.9. INFRASTRUCTURE STANDARDS

A. Standards for Street Design

Public and/or private streets shall be designed in accordance with the City’s, *Technical Standards Manual (TSM)*.

B. Standards for Utilities

Standards for the design and installation of public utilities shall be in accordance with the City’s TSM.

10.1.10 REDEVELOPMENT

The redevelopment of a parcel and/or lot resulting in a more intensive use and/or a subdivision of property shall warrant developer installed utility services and/or public utility extensions in accordance to State and City regulations and standards, with corresponding inspections completed by City staff. It should be noted that all public utility extensions of water infrastructure shall be planned along main City or State road thoroughfares and be extended to/serve all water connection points located at the extents of the proposed subdivision (i.e. subdivision roads intersecting with the main City or State road thoroughfare). In addition, proposed City water infrastructure along these main road thoroughfares shall be adequately sized from a hydraulic perspective and meet all of the City’s design regulations and standards.

As referenced in Section 10.1.2 (Minimum Lot Standards), proposed redeveloped lots shall meet the following criteria:

- A. The provisions included in Article 6, Section 6.6 shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for in Article 6.
- B. Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (See Article 7, Section 7.7) and buffer yards (See Article 11) will exist on the Lot.

It should also be noted that redeveloped lots shall meet all applicable criteria previously referenced throughout Article 10, Section 10.1 (Lot Design Standards).

10.2. STREET IMPROVEMENT STANDARDS

10.2.1. PURPOSE

The purpose of this Section is to prescribe minimum design standards for new public and/or private streets as well as certain provisions for existing streets. These requirements may exceed the standards prescribed by NCDOT for the acceptance of streets into the Secondary System of State Highways. The detailed and required engineering design standards supplementing this Section are found in the Technical Standards Manual or *TSM*, Article II, Streets and Pedestrian Paths.

10.2.2. STREET CLASSIFICATION SYSTEM

A. New, existing or proposed streets not already identified on the City of Concord Transportation Plan shall be classified for the purposes of determining the appropriate design of a roadway or development, or for the purpose of determining the appropriateness of a location of a proposed use into one of the “classes” shown in Table 10-2.1. The Administrator in consultation with the Transportation Director shall determine which of the Transportation Plan designations apply to the street under consideration utilizing the criteria of § 10.2.2., the City of Concord Transportation Plan and the narrative descriptions for each roadway classification provided in the City’s *TSM*.

B. The street classification system set forth in Table 10.2-1 is hereby adopted for rural and urban streets. Streets may be further categorized pursuant to the adopted City of Concord Transportation Plan.

Table 10.2-1 Street Classifications with Right-of-Way Widths

Facility Type	Typical Right-of-Way
Freeway/Expressway	>120'
Major Thoroughfare	120
Minor Thoroughfare	100
Collector (residential and non-residential)	60-80'
Residential Street	60'
Residential Lane	50'

C. Determination Criteria

In determining the classification of a street, factors to be considered include the following existing or proposed features:

1. Facility Geometrics, including the number and width of traffic lanes, turning lanes, and parking lanes.
2. Access Conditions, including any restrictions on access, the spacing of private accesses, and average lot frontages.
3. Traffic Characteristics, including average daily traffic volumes (ADT), percentage of trucks, average operating speed, percentage of turning movements, origin-destination characteristics of the traffic, and peak hour characteristics of traffic.
4. In applying these factors, the Administrator may also refer to Table 2-1, *TSM*, Article II, and the sources listed therein, which are hereby incorporated by this reference.

D. Conformity to Adopted Plans

All proposed streets shall conform in alignment to the adopted City of Concord Transportation Plan. The improvement standards of the TSM shall not apply instead of those shown on the Transportation Plan. , Whenever a tract to be subdivided embraces any part of a collector street or thoroughfare so designated on a plan pursuant to NCGS § 136-66.2 (such as the Concord Transportation Plan), such part of the proposed street or thoroughfare shall be platted by the subdivider in the location and right-of-way width indicated on such plan. Stub streets within previously platted subdivisions shall be extended and the street system aligned thereto and to the Transportation Plan.

10.2.3. STREET HIERARCHY

Hierarchy describes the connection of different classifications of streets. For example, very large streets such as thoroughfares may not be connected to residential lanes. However, residential lanes may be connected to Alleys (the next lower classification) or Residential Streets (the next higher classification).

Streets shall be designed to create a hierarchy according to the following standards, provided, however, that the Administrator in consultation with the Transportation Director may recommend design modifications where such modifications are consistent with an adopted access management plan or

necessary by reason of natural features or existing development, and do not create safety hazards or increased maintenance costs:

- A. Local Streets or Local Roads shall intersect with two streets of equal or higher classification, except where otherwise permitted by this Ordinance.
- B. Alleys shall intersect with Residential Collector Streets, Residential Streets, or Residential Lanes.
- C. The Administrator in consultation with the Transportation Director may require a street to be of a collector level design where the anticipated ADT will exceed 1,000 vehicles per day and serves to collect and distribute traffic to the major street system identified on the Transportation Plan.
- D. Reserve strips and cul-de-sac streets that interfere with street connections needed to serve existing or planned developments are prohibited.

10.2.4. PUBLIC STREETS

- A. Public streets shall be designed and constructed in accordance with the City's TSM, Article II.
- B. All new residential developments shall provide for the installation of traffic calming measure(s) on each residential street within the development where the length of the public street exceeds 1,000 feet. The location and type of traffic calming measure(s) shall be determined by the Planning Department and Transportation Department. Traffic calming measure(s) include but are not limited to traffic circles, roundabouts, bulb-outs, chicanes, median islands, and on-street parking (see Appendix A Traffic Calming Reference Guide of the Traffic Calming Policy for definitions and additional details on these measures).

For public streets in existing neighborhoods, traffic calming measure(s) are implemented in accordance with the Traffic Calming Policy.

- C. Pursuant to NCGS § 136-66.2 where a proposed subdivision abuts an existing street or roadway included in the City or North Carolina Department of Transportation street system, the applicant is required to dedicate at least one-half of the land necessary to comply with the minimum right-of-way width

requirements referenced in the Transportation Plan and or the City's TSM, Article II, §2, or the applicable regulations of the North Carolina Department of Transportation, whichever is greater.

- D. Where a subdivision abuts an existing street or roadway included in the City or North Carolina Department of Transportation street system and, where permitted, is designed to utilize such street for frontage and direct access, the subdivider shall be required to improve such street in accordance with the design requirements of the Transportation Plan and/or the City's TSM, Article II or if the street is on the State Highway System, the adopted regulations of the North Carolina Department of Transportation.

10.2.5. PRIVATE STREETS

- A. Private streets that develop as part of a subdivision, or integrated commercial, industrial, multi-family residential or institutional development shall be designed and constructed to the public street standards set forth in the City's TSM. Private streets that develop within a new residential subdivision shall also include traffic calming measures in accordance with public street requirements stated in Section 10.2.4, Part B of this Article. Private streets (with established right-of-way) shall be designed in accordance with the standards set forth in Article 10 and the TSM. This Section shall not include private access ways/driveways as regulated in 10.3.

For private streets in existing neighborhoods, traffic calming measure(s) are implemented in accordance with the Traffic Calming Policy

- B. A legally responsible organization (i.e. homeowners association, other legally recognized association, etc.) as acceptable to the Administrator shall be established to maintain a private street(s). Documents to assure private responsibility of future maintenance and repair by a homeowner's association or other legally recognized district shall be approved as to form by the City Attorney (this will constitute a contract)

10.2.6. STREET CONNECTIVITY REQUIREMENTS

- A. The City Council hereby finds and determines that an interconnected street system is necessary in order to protect the public health, safety and welfare; in order to ensure that streets will function in an interdependent manner; to provide adequate

access for emergency and service vehicles; to enhance non-vehicular travel such as pedestrians and bicycles; and to provide continuous and comprehensible traffic routes. [For reference, see Institute for Transportation Engineers, ITE Transportation Planning Council Committee 5P-8, Traditional Neighborhood Development Street Design Guidelines (June 1997).]

B. All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.

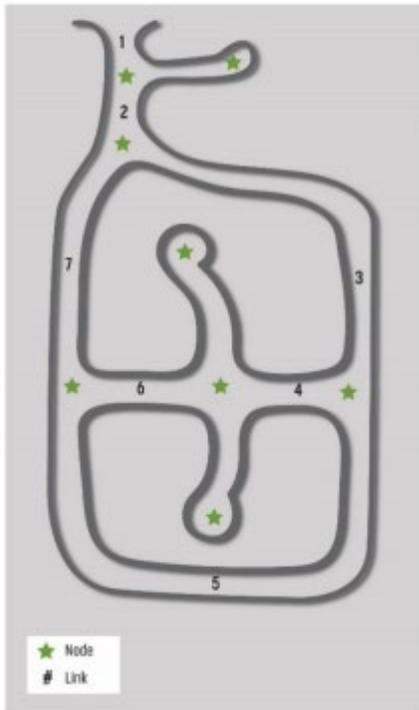
C. The street network for any subdivision shall achieve a connectivity ratio of not less than 1.40 (see examples in Figure 10.2-1). One greenway/pedestrian connection per subdivision may be used to substitute one link in order to achieve the connectivity ratio. Such a connection shall be reviewed and approved by the Administrator.

Nodes include 1) intersections of at least two distinct roadways or the allowed greenway/pedestrian connection with three distinct roadway or greenway/pedestrian branches to each intersection and 2) the ends of cul-de-sac roads. A link is a connection between nodes except for the connection to a cul-de-sac node. For purposes of this subsection, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.

Figure 10.2-1 Examples of Street Connectivity Ratio as applied

Example 1: Subdivision that does not meet the ratio (7 links/8 nodes = 0.88 ratio)

Example 2: Same development modified to meet ratio (14 links/7 nodes = 2.00)



D. Residential streets shall be designed so as to minimize the block length of local streets, to provide safe access to residences with minimal need for steep driveways and to maintain connectivity between and through residential neighborhoods for vehicular and pedestrian traffic.

E. Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 250 feet or one lot width in length, whichever is less. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means.

F. Exemption. New subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity ratio standard as set forth in this Section, provided the Administrator determines:

1. No option exists for providing stub streets due to topographic conditions, adjacent developed sites, or other limiting factors (Cost shall not be considered to be a limiting factor unless the cost of the stub street exceeds 150% of the cost of a street of similar length in the subdivision. Cost estimates must be certified by a registered N.C. engineer.); and

2. Interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on physical constraints of the property to be developed. Constraints include topography, hydrologic features, and no options to connect to adjacent developed sites. Cost shall only be considered as provided in 10.2.6 F.1. immediately above.

3. Conservation subdivisions shall also be exempt from the connectivity ratio requirements in part C of this Section, provided they have at least two access points that provide connections to distinct roadways and/or an adjacent development

10.2.7 DRIVEWAY (ACCESS) PERMITS REQUIRED

A driveway access permit is required prior to the construction of any new access point to a publicly maintained street. Refer to Section 10.4. Driveway Provisions. Applicants for preliminary subdivision plat or site plan approval shall submit copies of any driveway permit applications with the application for development approval.

10.2.8. ACCESS MANAGEMENT STANDARDS

A. Scope: The purpose of regulating the number, spacing and design of vehicular access points is to balance the need for providing access to individual private properties with the need to preserve an adequate level of capacity on the streets providing access.

All proposed vehicular access points that connect to a public street shall conform to the Access Management provisions of City's TSM, Article III. This Section applies to all driveways or access points to be maintained on private property, including that portion of a private driveway that connects to a public street and extends to the edge of the public right-of-way.

B. Permits are required for connections to public streets. Permits for connection to State-owned and State-maintained streets are issued by the NCDOT for a connection to any State Highway (19A NCAC §§ 2B.0601-2B.0605). A driveway permit is required in accordance to the requirements of the TSM for any connection to a City-maintained street.

C. If ingress and egress are the same, off-street parking spaces shall be connected to a public street by a paved driveway which affords safe and convenient ingress and egress provided, however, that the Administrator may waive this requirement where:

1. The driveway is connected to an adjacent driveway or series of driveways with access to a public street, and
2. The applicant has a valid easement providing for access to all driveways leading to the public street.

D. The standards found in the TSM, Article III, shall be used to determine the adequacy of lot layouts so that safe and adequate access to each lot is provided. Vehicular access restrictions shall be required to be shown on subdivision plats.

E. Secondary Access.

Secondary access shall be provided for major subdivisions of 100 or more lots. Secondary access streets shall be routed to avoid hazard areas such as floodways.

F. Substandard Access.

Where access meeting the spacing guidelines of this Section or *TSM* cannot be provided, the Administrator shall consider the following standards in determining whether a substandard access location may be permitted if such action shall not be contrary to the public interest and / or shall not be detrimental to the public health or general welfare of the traveling public. The request for substandard access shall be submitted in writing to the City.

1. The Administrator shall first determine whether alternate access is available. Alternate access includes:
 - a. Access to another street that meets the standards of the Ordinance; or
 - b. Access provided jointly with an adjacent property that will meet the standards of this Ordinance.
2. Where alternate access opportunities are determined not to exist, the Administrator may grant a reduction in spacing standards of up to 20 percent.
3. If after considering alternatives above, the Administrator, Director of Engineering, and Transportation Director determine no feasible alternative exist, a substandard access permit may be granted only subject to the provision of a maintenance guarantee.

10.2.9. BACKING MOVEMENTS PROHIBITED

Parking spaces that force a vehicle to back out into a public street are prohibited except for private residential driveways.

10.2.10. EMERGENCY VEHICLE ACCESS

A. Purpose

The purpose of this Section is to ensure that all premises shall be readily accessible for emergency service vehicles, particularly fire-fighting equipment.

B. Emergency Access Required

For developments without frontage on a public street, access for fire vehicles and emergency apparatus from a public street shall be provided as follows:

1. Except as provided by this § 10.1.9, a fire lane shall be required to provide access to any portion of any structure which is more than:
 - a. 150 feet from the nearest street right-of-way when the structure is thirty 30 feet or less in height; or
 - b. 50 feet from the nearest street right-of-way when the structure exceeds 30 feet in height.
2. When fire vehicles and emergency apparatus are provided access to any portion of a structure more than the distance from a street right-of-way specified in above, by means of either buffer yard area or adjoining property, the requirements of this § 10.1.9 may be waived by the Administrator, after consultation with the fire chief.

10.2.11. ACCESS DRIVEWAY STANDARDS

A. Access Driveway Width

The width of driveways shall be measured at the point of intersection with the public street right-of-way. Driveway width shall be regulated in accordance with *TSM* Article III , unless the Administrator determines the width should be expanded as set forth below. Medians shall not be included in the calculation for the width of driveways. Where no right-of-way exists, the Administrator shall determine the most appropriate location for the measurement. The Administrator may waive these requirements only under the following conditions:

1. The Administrator determines that a wider turning area is needed in order to avoid a traffic hazard,
2. The Administrator determines an appropriate distance from the point of intersection with the public street right-of-way where the driveway shall conform to the dimensional requirements of 10.2.2,
3. The design of the driveway is such that it progressively decreases in width to conform to the width as determined in Table 10.2.2.

Review and final approval of any proposed driveway design that does not conform to the dimensional limitation shall be under the

authority of the Administrator upon recommendation from the City Transportation or Engineering Director, or his designee.

10.2.12 SIDEWALK, CURB, AND GUTTER EXCEPTION

A. The Transportation Director, Engineering Director, and Administrator, may grant an exception from the sidewalk, curb, and gutter requirements if either or both of the following scenarios exists:

1. Topography does not allow for the reasonable or practical installation of sidewalks, curbs, and gutters; and/or
2. There is a funded transportation improvement project for the City of Concord or NCDOT, and the developer's improvements (infrastructure) would be affected.

Refer to Section 6.1.4-C.2 for development or expansion of 10% or less.

B. Application for Exception

A written application for a sidewalk, curb, and gutter exception is required and shall be submitted to the Development Services Department.

C. All exceptions are be subject to the following conditions:

1. The developer would be required to pay a fee-in-lieu of the required installation.
2. The fee would be calculated annually, based on actual costs for typical construction during the previous fiscal year at a rate of 110% to cover administrative costs and the cost of inflation.
3. The fee shall be put into a Sidewalk, Curb, and Gutter Reserve Account administered by the City of Concord.
4. The Reserve Account shall only be used for the construction of sidewalks, curbs, and gutters at locations within the same Sidewalk Maintenance Routes/ Zones as the project where the exception was granted.
5. Paying into the Reserve Account does not release a developer from providing any required rights-of-way and/or easement dedications.

6. If a developer provides an alternate walkway system that has been approved by the Administrator and Transportation Director, no sidewalk or sidewalk fee is required.

D. Appeal

An appeal from the decision of the Administrator / Transportation Director may be made to the Board of Adjustment. This appeal will be treated and processed as an appeal of a staff decision and follow the requirements of Section 6.3.5. , Appeals of Administrative Decisions.

10.3. PARKING AND LOADING

10.3.1. General Standards

A. Applicability

The provisions of this Section shall apply to any application for Zoning Clearance or Site Plan approval, except for developments in the CC zoning district.

B. Front Yard Parking Standards

1. Applicability

Parking is permitted in the front yards of any single family, duplex, triplex or quadplex dwellings in any zoning district other than agricultural.

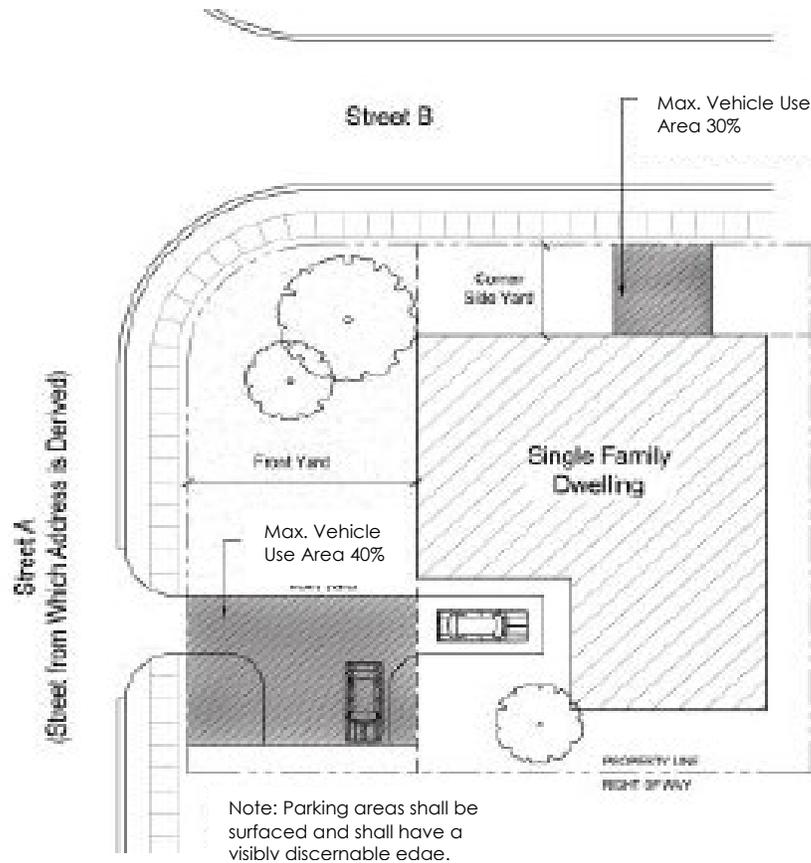
2. General

No person shall park or store any motor vehicle, boat, trailer or recreation vehicle in the front yards (between the street and a line drawn parallel to the street from the point of the dwelling that is closest to the street) other than completely upon an improved driveway or improved parking pad.

3. Coverage of Improved Area

Improved parking and drive areas shall not exceed 40% of the structure's front yard, except that front-load townhouse units with 20-foot wide driveways may exceed 40% maximum provided that all other development regulations in this Ordinance and the infrastructure requirements of the Technical Standards Manual (TSM) are met. (See Section 7.7.4.E). Access to the improved front yard area shall be limited to properly approved curb cuts or

other approved access points. Improved parking and drive areas shall be maintained in a safe and sanitary condition, and shall not contribute to soil erosion or tree damage. Proposed improved parking area shall be installed so as to avoid creating standing water conditions, diverting runoff onto neighboring property owners, or adversely impacting stormwater water quality.



4. Surfacing

Improved parking or vehicular use areas shall be surfaced with asphalt, concrete, brick or other suitable pavers. Gravel or crushed stone may be used if the gravel is at least two (2) inches deep throughout the vehicular use area, and the vehicular use area has a visible and definable edge made of landscape timbers, metal edging, vegetation such as low shrubs or decorative grasses, or similar technique to distinguish the vehicular use area from the front or corner side yard area.

5. Exceptions

a. Parking in the front yard may be allowed for a special event or circumstance but will require a permit issued by the Chief of Police for such event or circumstance. Permitted events will be limited to two per year per residence.

b. The prohibitions shall not apply to emergency and public service vehicles whose operators are performing services for which they are responsible, nor do these prohibitions apply to vehicles belonging to persons under contract with the City to perform a public service. However, this exception shall apply only when an emergency situation requires that such vehicles park in the prohibited area.

6. Application for a Zoning Clearance Permit

A zoning clearance permit is required for any front yard parking spaces constructed on a parcel in accordance with Article 6.1.4. A plot plan of the property showing the driveway location along with any other structures is required.

7. Principal Use Compliance

Parking areas which constitute the principal use of a site shall comply with the parking lot layout and design provisions, but not the minimum number of spaces as required in 10.3.2.

8. Modification to Required Parking or Loading Areas

The area reserved for off-street parking or loading in accordance with the requirements of this Article shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified. Street parking allowed adjacent to any land use shall not reduce the off street parking requirements where required, except as permitted in a TND development per Article 9.4.

C. General Design Standards for Non-Residential and Multi-family Development

1. Location

Required off-street parking area(s) shall be provided on the same parcel as the principal structure or use,

unless shared parking is provided as set forth in § 10.3.2 F.

a. For lots with not more than 200 feet of depth, not more than 50 percent of the parking spaces shall be located in a front yard setback as required in Dimensional and Density Standards Table 7.6-2.A except in zoning districts where front yard parking is not permitted. No parking spaces shall be allowed in a required street yard or buffer yard as required in Article 11.

b. For lots exceeding 200 feet in depth, parking spaces shall not be located within a front yard setback, or within a side yard setback adjacent to a residential zoning district. No parking spaces shall be allowed in a required street yard or buffer yard as required in Article 11.

2. Upfit to existing Public Street Required

New multi-family and nonresidential projects shall be required to provide curb and gutter and sidewalks to adjacent public streets which provide access to the development. Such improvements other related improvements such as Road widening, sidewalks, curb and guttering, utility relocations, and all other related improvements including any necessary right-of-way dedication shall be the responsibility of the developer and/or owner. Unnecessary as design of the upfit should go through site plan review. Design standards for pedestrian upfits to state maintained roads shall be subject to site plan review and approval by the Administrator and Transportation Director City Manager, or his designee, and the NC Department of Transportation. Sidewalks, curb and gutter shall not be required along interstate highways. Exceptions to the sidewalk requirements shall follow those outlined in 10.2.12.

3. Landscaping

Landscaping shall be required in accordance with Article 11, Landscaping and Buffering Standards.

4. Exterior Lighting

Lighting sources shall be designed and constructed so as to direct light away from public rights-of-way and residentially zoned or developed areas.

5. Paving Required

All required parking and vehicular traffic surfaces shall be graded for drainage in accordance with § 4.4 Stormwater Control and shall be surfaced with concrete or bituminous asphalt pavement. Alternative materials may be approved by the Administrator. Alternative materials shall only be considered if such material(s) exhibits equivalent load bearing and wear characteristics as concrete or bituminous asphalt. Other alternatives may include brick, concrete pavers, compacted fines, or stone. In making such a determination, the Administrator may consult the City Manager, or his designee, or other persons with knowledge of paving materials, including the Development Review Committee. All surfaces shall be maintained in sound condition free of weeds, dust, trash and debris.

a. Overflow Parking

Overflow parking areas, event parking areas and/or low-traffic storage yards shall use turf. Overflow parking shall be defined as off-street parking in excess of the minimum required by this Ordinance which is designed not to be used more than 10 times per year.

b. Paving Exemption for Assembly Uses

Paving of parking areas and access ways for assembly uses (churches, sports facilities, fairgrounds, etc.) may be waived if evidence is presented to the Administrator that these spaces will not be used regularly on a daily basis or at least five times per week. Parking areas for which paving is waived shall maintain a turf surface. All parking areas for which paving is waived shall meet the minimum requirements of Volumes I-C and V of the North Carolina State Building Code for

Accessibility and for Fire Prevention. All parking lots shall be constructed with proper drainage.

6. Parking and Storage of Certain Vehicles

a. Automotive vehicles or trailers shall not be parked or stored on any residentially zoned lot without required current license plates other than in enclosed buildings behind the front setback.

b. Tractor-trailers, cargo trucks, and other such heavy equipment shall not be parked or stored in any residential district or on any adjacent public right-of-way other than in an area completely screened from public view. When such vehicles are parked in a commercial or industrial zone, they shall be no closer than 25 feet to any residential district.

10.3.2. Required Amount of Off-Street Parking

Table 10.3-1 establishes the minimum and the maximum number of parking spaces permitted for the uses indicated.

A. Parking Structures Exempted

The maximum parking requirements shall not apply to parking spaces within an above-ground or an underground parking structure. For the purposes of parking calculations, the gross area of any parking garage within a building shall not be included within the gross floor area of the building.

B. Exemption from Required Number of Spaces

The minimum requirement for the number of vehicle parking spaces shall not apply within the following zoning districts:

1. CC City Center
2. TND Traditional Neighborhood Development

C. Uses Not Identified in Table 10.3-1

The Administrator shall determine the parking requirement for uses which do not correspond to the categories listed in Table 10.3-1. In such instances, the applicant shall provide adequate

information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:

1. Type of use(s);
2. Number of employees;
3. The occupant load (per Building Code) of the building;
4. Square feet of sales area and service area;
5. Parking spaces proposed on-site;
6. Parking spaces provided elsewhere; and
7. Hours of operation.

D. Multiple Uses

In those instances where there are clearly identified accessory or multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure, resulting in a total parking requirement when summed, except as provided in paragraph F below.

E. Modification to Required Number of Spaces

In unusual circumstances, the standard parking requirement may not be appropriate. The Administrator shall have the authority to vary the parking requirement, either upward or downward by up to 10 percent, if one or more of the following circumstances exists:

1. Expected automobile ownership or use patterns of employees, tenants, or other users varies from what is typical in the community or typical for the use.
2. The parking demand varies throughout the day in relation to parking supply.
3. The nature of operational aspects of the use warrants unique parking arrangements.

F. Shared Parking

1. Off-street parking requirements of a given use may be met with off-site, off-street parking facilities of another use when, and if, all of the following conditions are met:
 - a. In nonresidential zoning districts, the parking may be up to 500 hundred feet from the principal structure;

b. The parking demands of the individual uses, as determined by the Administrator, based upon minimum off-street parking requirements, are such that the total parking demand of all the uses at any one time is less than the total parking spaces required; and

c. A written agreement between the owners and lessees is executed for a minimum of 10 years, approved by the Administrator, recorded, and a copy maintained in the project file. Should the lease expire or otherwise terminate, the use for which the off-site parking was provided shall be considered to contain nonconforming site improvements. Future expansion of the use shall be prohibited unless the use is brought into compliance with this Section 10.3.

2. Developments which contain a mix of uses on the same parcel, as set forth in Table 10.3-1, may reduce the amount of required parking in accordance with the following methodology: (1) determine the minimum parking requirements in accordance with 10.3-1 for each land use as if it were a separate use, (2) multiply each amount by the corresponding percentages for each of the five time periods set forth in Columns (B) through (F) of Table 10.2-5, (3) calculate the total for each time period (Columns), (4) select the Column with the highest total, and (5) use this number as the required minimum number of parking spaces.

**Table 10.2-5
Shared Parking Allowances by Land Use**

Land Use	Weekday		Weekend		Nighttime*
	Daytime*	Evening*	Daytime*	Evening*	
Office/Industrial	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Entertainment/ Commercial	40%	100%	80%	100%	10%

***Key:**

- Daytime (6am – 5pm)
- Evening (5pm – midnight)
- Nighttime (midnight – 6 am)

Table 10.3-1: Required Minimum and Maximum Parking Spaces

Land Use	Min. Vehicle Spaces	Max. Vehicle Spaces
Residential		
Single Family, detached (includes manufactured and modular homes)	2 per parcel	n/a
Duplex (Two units per lot)	2 per unit	n/a
Multi-Family (3 or more units) and attached Single-Family	1.5 per unit	2.5 per unit
Accessory Dwellings	1 per unit	n/a
Family Care Home	2 per parcel	n/a
Institutional and Civic		
Auditorium/Public Assembly	1 per 6 seats or 1 per 50 sf GFA (if no seats)	1 per 4 seats or 1 per 30 sf GFA (if no seats)
Botanical Garden and Nature Preserves	n/a	1 per 125 sf GFA of bldg.
Campground	1 per 6 camp sites, plus 4 per laundry & shower facility	n/a
Child Care Center	1 per 375 sf GFA	1.5 per 375 sf GFA
Civic, Social and Fraternal Organizations	1 per 250 sf GFA	1 per 200 sf GFA
Emergency Service Facilities	1 per employee + 1 per 3 volunteer personnel on normal shift + 1 per 200 sf usable office space	n/a
Golf Course	4 per hole	6 per hole
Golf Driving Range	1 per 2 tees	1 per tee
Governments Buildings	1 per 300 sf GFA	1 per 125 sf GFA
Hospital	1 per 400 sf GFA	1 per 100 sf GFA
Museums and Art Galleries	1 per 1,000 sf GFA	1.5 per 1,000 sf GFA
Park, public	1 per 4 seats	1 per seat
Religious Institutions	1 per 8 seats	1 per 1.5 seats
Residential Care Facilities and Group Homes	0.3 per room	1 per room
Schools - Business, Trade and/or other Vocational	1 per 200 sf GFA	1 per 150 sf GFA
Schools - Elementary and Secondary	1 per classroom	2 per classroom
Schools - University or College	1 per 4 students	1 per 2 students
All other Institutional Uses	1 per 300 sf GFA of bldg.	1 per 125 sf GFA of bldg.
Professional Office/Business Services		
Offices, General	1 per 1,000 sf GFA	1 per 200 sf GFA
Banks (with drive-through)	1 per 300 sf GFA, plus sufficient stacking spaces to accommodate any drive-through lane(s)	1 per 150 sf GFA, plus sufficient stacking spaces to accommodate any drive-through lane(s)
Banks (without drive-through facilities)	1 per 250 sf GFA	1 per 140 sf GFA
Funeral Home and Services	1 per 4 seats	1 per 2 seats
Personal Services (Dry Cleaners, etc.)	1 per 500 sf GFA	1 per 215 sf GFA
Personal Care Services (Hair, skin, etc.)	1 per 200 sf GFA	1 per 100 sf GFA
All other Professional Office/Business Service uses	1 per 300 sf GFA	1 per 150 sf GFA
Retail Trade		
Amusement Arcade	1 per game table, video game or other amusement device	n/a
Amusement Park	1 per 600 sf of outdoor recreation area	1 per 500 sf of outdoor recreation area
Automobile Sales, New and Used (see § 5.6)	1 per 375 sf GFA of sales area, plus 1 per employee, plus 1 per vehicle stored on site	1.5 per 375 sf GFA of sales area, plus 1 per employee, plus 1 per vehicle stored on site

Land Use	Min. Vehicle Spaces	Max. Vehicle Spaces
Automobile Repair/Body Shop	1 per 500 sf GFA including all service areas, plus 1 per employee	1 per 375 sf GFA including all service areas, plus 1 per employee
Bed and Breakfast Inns (see § 5.7)	1 per guest bedroom, plus 2 for owner/operator	n/a
Bowling Centers	2 per lane	4 per lane
Building Material Supply, Greenhouses, Nurseries, Lawn & Garden Supply	1 per 375 sf GFA of sales or service building area	1.5 per 375 sf GFA of sales or service building area
Car Wash (as a principal use), Truck Stops, and/or Travel Plaza	1 per 500 sf GFA including wash bays/tunnels and retail areas	1 per 375 sf GFA including wash bays/tunnels and retail areas
Convenience Store	6 per 1,000 GFA, plus sufficient stacking area to accommodate 2 vehicles per each side of pump island	10 per 1,000 GFA, plus sufficient stacking area to accommodate 2 vehicles per each side of pump island
General Merchandise Stores (less than 25,000 sf GFA)	1 per 300 sf GFA	1 per 200 sf GFA
Grocery/Food Stores	1 per 300 sf GFA	1 per 200 sf GFA
Health Clubs and Fitness Centers	1.5 per 1,000 sf GFA	10 per 1,000 GFA
Hotels, Motels and Extended Stay Facilities	1 per room plus 1 per 800 sf of public meeting area and restaurant space	1 per room plus 1 per 400 sf of public meeting area and restaurant space
Manufactured Home Sales	1 per 100 sf GFA of office area, plus 1 per every 2 employees	n/a
Miniature Golf	1 per hole	2 per hole
Mini-warehouse/Self-storage Leasing (see § 5.15)	1 for every 200 rental spaces (2 required)	n/a
Motion Picture Theater	1 per 6 seats	1 per 4 seats
Motion Picture Theater, drive-in	1 for each viewing space the facility is designed to accommodate	1 for each viewing space the facility is designed to accommodate
Restaurants (with drive-through service and/or carry-out)	1 per every 3 seating accommodation plus sufficient stacking area to accommodate any drive-through lane(s)	1 per 50 sf GFA, plus sufficient stacking area to accommodate any drive-through lane(s)
Restaurants (dine-in only)	1 per every 3 seating accommodation	1 per 50 sf GFA
Shopping Centers/Superstores (25,000-400,000 sf GFA)	1 per 250 sf GFA	1 per 150 sf GFA
Shopping Centers/Superstores (400,001-600,000 sf GFA)	1 per 225 sf GFA	1 per 150 sf GFA
Shopping Centers/Superstores (over 600,000 sf GFA)	1 per 200 sf GFA	1 per 150 sf GFA
Wholesale Trade uses, Manufacturing and Industrial uses		
Contractor's office	1 per 600 sf GFA	n/a
Junk/Salvage Yard	1 per 2 employees at peak shift, plus 1 per 5,000 sf of land area devoted to material storage, plus 1 for each company vehicle at peak shift	n/a
Manufacturing uses	2 per 3 employees at peak shift, plus 1 per each company vehicle at peak shift	n/a
Mining and Extractive Uses	1 per employee at max. shift, plus 1 per each company vehicle at peak shift	n/a

Land Use	Min. Vehicle Spaces	Max. Vehicle Spaces
Wholesale sales and all other Industrial uses	1 per 400 sf GFA of sales and office area, plus 1 per each company vehicle at peak shift or 2 per 3 employees at peak shift, plus 1 per each company vehicle at peak shift (use whichever is greater)	n/a
Transportation, Warehousing and Utility uses		
Air, Rail or Bus Terminal	1 per employee, plus spaces required to satisfy projected peak parking demands	n/a
Communications Tower/Antenna	none (see § 5.21)	n/a
Truck Terminal	1 per employee at peak shift, plus 1 per each company vehicle at peak shift	n/a
Warehouse and Storage	1 per 400 sf GFA of sales and office area, plus 1 per each company vehicle at peak shift or 2 per 3 employees at peak shift, plus 1 per each company vehicle at peak shift (use whichever is greater)	n/a
Utility uses	1 per employee at peak shift, plus 1 per each company vehicle at peak shift	n/a

10.3.3. OFF-STREET LOADING AND UNLOADING AREA STANDARDS

A. Scope

There shall be provided on the same lot with each nonresidential building or structure, adequate space for off-street loading, unloading and the maneuvering of shipping and delivery vehicles. Off-street maneuvering space shall be provided so that no backing onto or from a public street is required. All loading and maneuvering areas shall:

1. be surfaced with pavement, concrete or equivalent,
2. be properly drained,
3. be designed with regard to pedestrian safety,
4. have direct access to public streets, and
5. shall be screened from adjacent residentially zoned or developed property as provided in Article 11, Landscaping and Buffering.
6. No loading docks shall be visible from a thoroughfare or collector street right-of-way.

B. Required Amount

1. The Uses required to provide off street loading/unloading space and, the quantity and size of said space required shall be:

a. Retail and service establishments

One loading space with minimum dimensions of 12 feet by 25 feet for every 20,000 square feet of Gross Leasable Area rounded off to the nearest 20,000.

b. Office buildings and lodging establishments

One loading space with minimum dimensions of 12 feet by 25 feet for every 50,000 square feet of Gross Leasable Area rounded to the nearest 50,000. If only standard size service/delivery vehicles are used, then one standard sized parking space may be substituted at the Administrator’s approval.

c. Industrial/manufacturing and wholesale establishments

Industrial/manufacturing and wholesale establishments shall provide the following loading spaces with a minimum dimension of 12 feet by 25 feet:

Building Size	Loading Spaces
Up to - 50,000 sq. ft.	1 space
50,000 - 120,000 sq. ft.	2 spaces
120,000 - 220,000 sq. ft.	3 spaces
220,000 - 350,000 sq. ft.	4 spaces
350,000 - 550,000 sq. ft.	5 spaces
550,000 - 850,000 sq. ft.	6 spaces
Each additional 400,000 sq.ft.	1 additional space

2. Off street loading/unloading areas shall be located such that interference with traffic on Streets is minimized (subject to approval by the Administrator).

3. No off street loading/unloading space shall be sized such that any reasonably anticipated vehicle utilizing the space will protrude into any required Parking Space and/or Street right-of-way.

10.3.4 Bicycle Parking

- A. **Purpose.** Bicycle parking requirements are intended to encourage the use of bicycles to promote healthy mobility options and improve the public health safety and welfare through improved air quality, reduced energy consumption and more efficient use of vehicular parking areas.
- B. **Applicability.** The bicycle parking requirements of this section shall apply to all new development, additions to existing development and redevelopment of commercial property as defined in section 7.10.2.
- C. **General Requirements.**
 - 1. Bicycle parking shall be provided in accordance with the standards of this section and shall be made available prior to the issuance of any Certificate of Occupancy for the use being served.
 - 2. Covered bicycle parking is encouraged wherever the design of the building or use being served by the bicycle parking facility includes a covered area that could accommodate such facilities either as proposed or through economical redesign.
 - 3. Bicycle parking located within a parking garage must be located within 50 feet of a pedestrian access point which includes an elevator, stairwell, or first floor sidewalk connection. If the bicycle parking is located within an enclosed room within the parking structure, the distance requirement to an elevator, stairwell, or pedestrian entrance is no more than 200 feet.
- D. **Number of Spaces Required.** The minimum number of bicycle parking spaces required is shown in Table 10.4-1. When the calculation of the number of required bicycle parking spaces results in a fractional number of spaces, any fraction up to and including 0.5 shall be disregarded and any fraction over 0.5 shall require one bicycle parking space. For any use not listed in Table 10.4-1, bicycle parking spaces may be substituted for vehicle parking spaces at a rate of 8 bicycle parking spaces per vehicle parking space. The maximum substitution shall be 5% of the vehicle parking spaces required under this Part or 10 spaces, whichever is greater.

Table 10.4-1: Minimum Number of Bicycle Parking Spaces Required

Land Use	Minimum Number of Bike Parking Spaces
Retailing, Eating & Drinking	4 spaces plus 1:7,500 sf GFA
Health, Fitness, or Sports Club	4 spaces plus 1:10,000 sf GFA
Office	4 spaces plus 1:15,000 sf GFA
Hotels/Motels	1:30 Rooms
Warehouse, Manufacturing & Processing	4 spaces plus 1:50,000 sf GFA
Self-Storage Facilities	4 spaces
Schools - High	3:1 classroom
Schools - Elementary & Middle	4:1 classroom
Schools -College, University, Adult	1:5 classrooms
Hospitals	8 spaces plus 1:50,000 sf GFA
Medical Office, Laboratory, or Clinic (Including Veterinarian)	1 per 5 employees
Libraries, Museums, Theaters, Bowling Alleys, Skating Rinks, Community Center	8 spaces plus 1:5,000 sf GFA
Multi-family Dwellings	1:5 units
Religious Institution	4 spaces plus 1:10,000 sf GFA

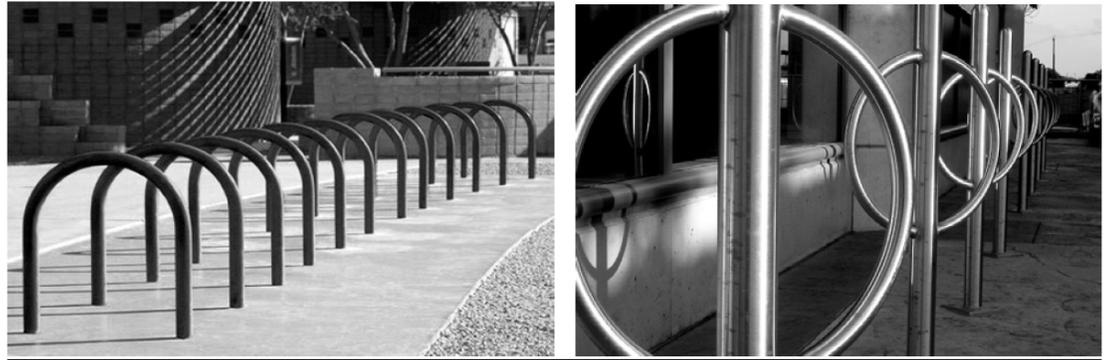
E. Location. Bicycle parking spaces shall be located within 50 feet of the main entrance to the building as measured along the most direct pedestrian access route. For a building with more than one entrance, the bicycle parking must be distributed along all facades with a main entrance and located within fifty (50) feet of at least one main entrance, as measured along the most direct pedestrian access route.

F. Design.

1. **Bicycle Parking Space Design.** All bicycle parking spaces shall comply with the following standards:
 - a. Minimum aisle width: sixty (60) inches, to allow for access and maneuvering.

- b. **Accessibility:** Accessible to users without climbing or descending stairs.
 - c. **Safety:** Separated from vehicle parking spaces by physical barriers, such as curbs, wheel stops, bollards or other similar features, to protect bicycles from damage.
 - d. **Site Coordination:** Consistent with the design, color and character of the buildings, street furniture and other features on the building site, but clearly discernible as bicycle parking.
 - e. **Design:** Enable users to lock the frame and both wheels.
 - f. **Construction:** Anchored, so that they cannot be easily removed.
 - g. **Distance:** Bicycle racks not be placed closer than thirty (30) inches from each other and not closer than thirty-six (36) inches from walls or any other obstructions.
 - h. **Style:** The inverted "U" style bicycle rack that can hold two bicycles is the preferred type of rack (also known as a "staple", "hoop", or "U" rack). Bicycle racks that are prohibited in the City of Concord are the wave, comb, schoolyard, coat hanger, wheel well, and bollard style as defined in the Association of Pedestrian and Bicycle Professionals', Essentials of Bike Parking, Rev. 1, 2015.
2. **Standard Bicycle Rack Design.** All standard bicycle racks shall comply with the following standards:
- a. **Maximum rack height:** thirty-six (36) inches.
 - b. **Minimum depth for each row of parked bicycles:** seventy-two (72) inches.
 - c. **Minimum separation between horizontal rows:** thirty (30) inches on center to allow enough room for two (2) bicycles to be secured to each rack element.
 - d. **Capacity:** Designed to accommodate (2) or more bicycle parking spaces per rack.
 - e. **Finish:** Powder coated, or other weather-proof surface, as approved by the Transportation Official.
 - f. **Simplicity:** Easy to understand and operate, with no moving parts.

- g. Operation: Usable without lifting the bicycle onto the device.
(Applies to Short-Term racks only).



Images: Examples of Standard Bicycle Rack Designs

- 3. **Alternative Bicycle Rack Design.** Alternative bicycle parking rack designs may be approved, in compliance with the following standards:
 - a. Size: Accepts multiple bicycle frame sizes and styles.
 - b. Compatibility: Accommodates the use of cable and U-type locks.
 - c. Purpose: Allows the frame and at least one (1) wheel of the bicycle to be locked to the rack.
 - d. Scale: Visible to pedestrians and the visually impaired, but consistent with the scale of the bicycle locked to the device.
 - e. Durability: Maintenance-free or fabricated from materials that weather in an aesthetically pleasing manner.
 - f. Simplicity: Easy to understand and operate, with no moving parts.
 - g. Operation: Usable without lifting the bicycle onto the device.

10.4 PRIVATE DRIVEWAY PROVISIONS

10.4.1. SCOPE

A. All proposed vehicular access points to connect to a public street shall conform to the Access Management provisions of this § 10.4 , as well as applicable sections of Article 10 and the City's TSM. This § 10.4 shall apply to all driveways or access points to be maintained on private property. The provisions of shall regulate that portion of a private driveway that connects to a public and extends to the edge of a public right-of-way.

B. If ingress and egress are the same, off-street parking spaces shall be connected to a public street by a paved driveway which affords safe and convenient ingress and egress provided, however, that the Administrator may waive this requirement where:

1. the driveway is connected to an adjacent driveway or series of driveways with access to a public street, and
2. the applicant has a valid easement providing for access to all driveways leading to the public street.

C. **Driveway Width**

Refer to § 10.2.11

10.5. OPEN SPACE STANDARDS

10.5.1. PURPOSE

Open spaces preserve natural resources and provide areas for active and passive recreation in developed areas.

10.5.2. APPLICABILITY

Open space, as defined in Article 14, shall be reserved in major subdivisions of land, planned unit developments, planned residential developments, traditional neighborhood developments, and developments requiring site plan review in accordance with Article 5. Buffers and setbacks required in Article 4 and active open space shall not overlap. Passive open space may overlap buffers and setbacks in required in Article 4 that are located outside of the floodway. Active open space shall not overlap the planting yards required in Sec. 11-3. Passive open space may overlap buffer yards and street yards required in Sec. 11.4 and 11.7. Developments that meet all of the following criteria shall not be subject to the requirements of this Section:

- A. Contains less than thirty (30) proposed dwelling units, and
- B. Located less than ½ mile of walking distance from an existing or planned public park (or a public school with recreation facilities accessible to the general public), and
- C. Includes a proposed connection to the park or school by a sidewalk or greenway trail.

10.5.3. REQUIRED IMPROVEMENTS

Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below. Developers shall be responsible for making certain improvements to the land they dedicate as open space within their development for park, playground, public active open space, and other open space purposes as follows:

- A. Provide finish grade and turf establishment for all disturbed areas and provide landscaping and/or screening in accordance with Article 11 and the Manual.
- B. Complete, construct, and surface walkways, which may be required as trail connectors in accordance with this Section. Such walkways may be within or abutting residential street rights-of-way. Such connections shall not be used in the financial investment described in Item (2).
- C. Complete and construct improvements as set forth in Table 0.2 below.
- D. The size of open space(s) required shall be the minimum shown in Table 10.5.13. below.
- E. Establish tree save areas in accordance with Section 11.9; tree save areas may be counted towards passive open space.
- F. Provide any other recreational areas and associated facilities as required by the Planning and Zoning Commission.

10.5.4. USE OF STORMWATER DETENTION BASINS

Retention areas or detention basins, which may be required as part of Article 4 shall not qualify as open space for residential developments unless:

- A. Fifty percent (50%) or more of the active and usable area is above the area submerged during a ten (10) year storm, and
- B. The detention basin is designed for multiple uses and the usable areas conform to all of the requirements of this Subsection, (d).
 - 1. Retention or detention areas may meander through the development rather than exist as a single basin. Retention areas shall be improved so as to be usable and accessible. Detention areas shall not be permanently inundated so as to be unusable for their designated recreational purposes.
 - 2. Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming, and contouring are required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a 3:1 slope.

10.5.5. SIZE

Unless otherwise specified below, open spaces shall be reserved based on zoning districts and proposed densities and equal or exceed the minimum total land area identified in Table 0.1. The minimum dimension for usable open space shall be fifty (50) feet in width, excluding areas reserved for trails, medians, greenways, and sidewalks that meet the intent of this ordinance and have a minimum dimension of 15 feet. If the open space includes agricultural areas, the agricultural areas shall have a contiguous area of not less than fifty (50) acres. The agricultural areas may be combined with adjacent agricultural lands provided, however, that the minimum width prescribed above shall be met on all portions of the agricultural open space. If the required open space area cannot be reserved, developers may apply for an exemption and pay the required in-lieu-of fee in accordance with Table 0-1.

10.5.6. OPEN SPACE REQUIRED

Open space shall be required in all developments as set forth in Table 0-1.

10.5.7. LOCATION

A. Distance to Dwellings

Open space shall be located within one-quarter (1/4) mile radius from each buildable lot within the proposed development. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections.

B. Connectivity

The Administrator may require connection to a community open space network and/or trails system if the proposed development is adjacent to the boundary of an established community public open space as included in the Livable Communities Blueprint for Cabarrus County or any other park, recreation, greenway, or open space plan adopted by the City Council, which are all hereby incorporated by reference as if set forth in their entirety herein.

C. Accessibility

Active open space areas shall be accessible to all residents of the development. Accessibility to pedestrians within the proposed development shall be provided by one of the following means. Upon review of the design by the Administrator, additional pedestrian access points may be required.

1. Access shall be provided via frontage on a public street right-of-way containing a sidewalk; or

2. Access shall be provided via a recorded pedestrian easement (minimum 15 feet wide).

D. Contiguity

At least sixty percent (60%) of the required open space shall be in a contiguous tract. For the purposes of this Section, contiguous shall include any open space bisected by a residential street (including a residential collector), provided that:

1. A pedestrian crosswalk is constructed to provide 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 the minimum open space required.

10.5.8. MAINTENANCE

A. Open-space areas shall be owned, preserved, and maintained as approved by the City Council by any of the following mechanisms or combinations thereof:

1. Dedication to the City, an appropriate public agency, or a non-profit entity (such as a land conservancy) if such an agency or entity is willing to accept the dedication and is financially capable of maintaining such open space, or
2. Common ownership by a property owners' association, which assumes full responsibility for the maintenance of the open space. In the event the association fails to maintain the open space according to the standards of this Ordinance, the City may, following reasonable notice:
 - a. Demand that the deficiency of maintenance be corrected; or
 - b. Enter the open space to perform the needed maintenance. The cost of such maintenance shall be charged to the association.

B. Open-space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed.

1. **Active Open Space.** Maintenance shall include ensuring that there exist no hazards, nuisances, or unhealthy conditions.
2. **Passive Open Space.** Maintenance for passive open space areas that are not designated tree save areas, as

defined in Article 11, shall include the removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding; and mowing. Human-made litter and debris shall be removed from passive open space areas that are tree save areas. For all passive open space areas, litter and debris shall not inhibit the flow of natural watercourses. Stream channels shall be maintained so floodplains elevations remain unchanged.

3. Open Space on Farms. No specific maintenance is required for open space with agricultural uses. No specific maintenance is required for open space with forestry uses provided that a current forest management plan is filed with and approved by the appropriate State agency.

4. Greenways. Greenways connecting residences, schools, and recreational areas are encouraged. Maintenance shall include the removal and avoidance of hazards, nuisances, or unhealthy conditions.

10.5.9. SUBMITTAL REQUIREMENTS

All areas reserved as open space shall be delineated and labeled on required preliminary and/or final subdivision plats, and required site plans.

10.5.10. OPEN SPACE PROVISION AND MAINTENANCE PLAN

An Open Space Provision and Maintenance Plan shall be submitted as a part of the application for development approval including the project-phasing schedule. The plan shall:

- A.** Designate areas to be reserved as open space. The location and use of open-space areas shall be sensitive to the physical and design characteristics of the site.
- B.** Designate the type of open space that will be provided (passive or active) and identify tree save areas, as defined in Article 11.
- C.** Specify the manner in which the open space shall be perpetuated, maintained, and administered.

10.5.11. UTILITY RIGHTS-OF-WAY

Open space may be located within a utility right-of-way provided that permanent structures and other obstructions are not located in the right-of-way.

10.5.12. OPEN SPACE FEE-IN-LIEU

A. In lieu of land dedication, the Planning and Zoning Commission or City Council may permit the developer to contribute a cash payment to the City. The value of such payment shall be 300 percent of the pre-development tax value of the required open space area.

B. If, at the option of the Planning and Zoning Commission, it is determined that a cash dedication may be made, said cash shall be paid to the City Finance Director and shall be deposited into a special Parks and Recreation Service Area fund prior to final plat approval. Money in the fund, including accrued interest, shall be expended solely for acquisition, development, or rehabilitation of recreational lands or improvements related thereto.

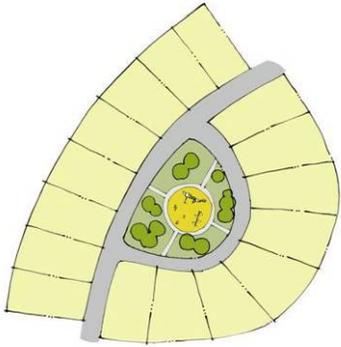
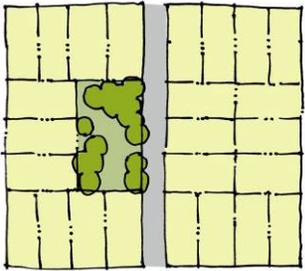
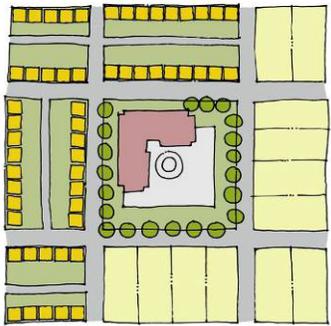
C. Collected fees shall be appropriated by the City for a specific project to serve residents of the subdivision. Collected fees shall be expended within a budgetary year no more than ten years after the receipt of the recreation improvement request. If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lots bears to the total area of all lots in the subdivision.

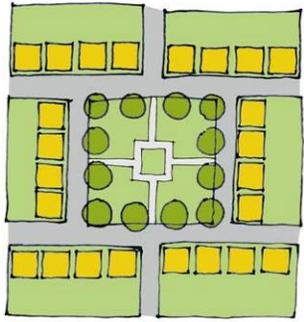
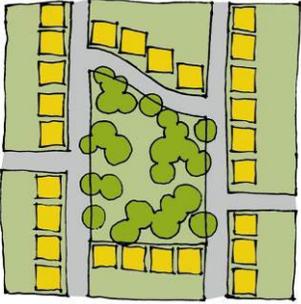
Table 0-1

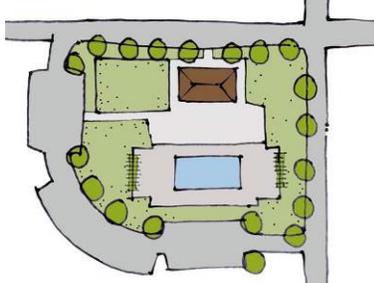
10.5.13. Tables

Zoning District(s)	Total Percentage of Open Space
AG	N/A
CS	See Table 9.13-1
RE, RL, RM-1, RM-2, RV and RC	10%(0 - 2 units per acre)* 15% (2.1 - 4 units per acre)* 20% (greater than 4 units per acre)*
B-1, O-1, CC, C-1, C-2, I-1 and I-2	N/A
PUD, PRD	20% (up to 4 units per acre)* 25% (greater than 4 units per acre)*

TABLE 0-2

Category	Description	Required Improvements	Illustration
<p style="text-align: center;">Tot Lot Playground</p>	<p>Tot lots and playgrounds provide play areas for children, open shelters, and benches.</p> <p>Playgrounds may be located within squares, greens, mini-parks, and neighborhood parks or may stand alone within a residential block.</p>	<p>Improvements shall include commercial-grade play equipment for two age groups - a tot lot for children ages 1-5 with separate play equipment for children ages 6-10, including at least 2 park benches, and 1 trash receptacle. Improvements may include picnic units and shelters. Areas with playground equipment shall have a shock-absorbing surface with a maximum 2% slope. ^{1 2 3}</p>	
<p style="text-align: center;">Mini-Park</p>	<p>Mini-parks provide active recreational facilities for the use of the residents in the immediate surrounding neighborhood within the development.</p> <p>Mini-parks may range in size from 2,500 ft² to 1 acre.</p>	<p>Improvements may include tennis courts, basketball courts, playgrounds, and seating accommodations. Each mini-park shall be centrally located and easily, conveniently, and safely accessible by those persons in the neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. ^{1 2 3}</p>	
<p style="text-align: center;">Plaza</p>	<p>Plazas provide areas for passive recreation adjacent to civic or commercial buildings.</p> <p>Plazas may range in size from 2,000 to 30,000 ft².</p>	<p>Improvements may include brick or some other type of paved block surfacing. Plazas shall be level, stepped, or gently sloping. At no time shall the horizontal length or width be greater than 3 times the height of surrounding buildings.</p>	

Category	Description	Required Improvements	Illustration
Square	<p>Squares provide formal areas for passive recreation bound by streets or front facing lots.</p> <p>Squares may range in size from 500 ft² to 1 acre.</p>	<p>Improvements may include trees plantings, which are encouraged parallel to the street right-of-way.</p> <p>Geometrical tree planting layouts for internal plantings are also encouraged. Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter, and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots shall be allowed adjacent to a square.</p>	
Green	<p>Greens provide an informal area for passive recreation bound by streets or front facing lots.</p> <p>Greens may range in size from 500 ft² to 1 acre.</p>	<p>Improvements may include informal tree plantings and an irregular topography.</p> <p>Greens may be used to preserve specimen tree(s).</p> <p>Greens shall be bound by streets on a minimum of three sides or 75% of their perimeter, and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green.</p>	
Neighborhood Park	<p>Neighborhood parks provide active and/or passive recreational use.</p> <p>Neighborhood parks may range in size from 1 to 5 acres, and may exceed 5 acres if it serves an entire neighborhood or group of neighborhoods, or incorporates large physical features.</p> <p>Neighborhood parks may be combined with parkways.</p>	<p>Improvements shall include benches and walking paths.</p> <p>Improvements may include, but are not limited to, tennis courts, racquetball courts, basketball courts, volleyball courts, ball fields, swings, slides, playgrounds, dog parks, restrooms, picnic units, shelters, and parking.</p> <p>Neighborhood parks may include assets to the community such as a lake, river frontage, high ground, or significant stands of trees and shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter.^{2,3}</p>	

Category	Description	Required Improvements	Illustration
<p style="text-align: center;">Clubhouse Pool Amenity Area</p>	<p>Clubhouses and pool amenity areas may be located in a neighborhood park, mini park, or alone as an amenity area for the residents of a developed community.</p>	<p>Improvements may include a swimming pool, group activity room, gazebos, outdoor eating areas, and exercise stations. Pools shall be at least 1000 ft². All pertinent building and health codes for swimming pools shall be met. ⁴</p>	 <p>The illustration shows a site plan for a clubhouse and pool amenity area. It features a central blue rectangular pool, a brown rectangular building (clubhouse), and several green circular trees scattered around the pool and building. The area is enclosed by a grey boundary, possibly a road or fence.</p>
<p style="text-align: center;">Parkway</p>	<p>Parkways provide passive recreational areas along natural or constructed features such as streams or roads and are used for transportation, recreation, and environmental protection. Parkway and greenways differ from neighborhood parks, plazas, and squares in that their detailing is natural (i.e., informally planted), except along rights-of-way, and may contain irregular topography.</p>	<p>Improvements shall include appropriately surfaced trails, benches, and trash receptacles. Parkway shall be designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods. Existing mature trees, landscaping, natural drainage ways, and creeks shall be preserved.</p>	 <p>The illustration shows a parkway layout with a central green area containing many small green circles representing trees. This central area is flanked by yellow rectangular plots, likely representing residential lots or other developed areas. The parkway area is irregular in shape, following the natural topography.</p>

¹ Playgrounds must meet all federal, state, and local regulations and guidelines and be compliant with the Americans with Disabilities Act. See the National Playground Safety Institute for guidelines and additional resources for design.

² See National Recreation and Park Association's (NPRA) *Park, Recreation, Open Space and Greenway Guidelines* for recommended design/spatial standards.

³ See *Recommendations for Accessibility Guidelines: Recreational Facilities and Outdoor Developed Areas* for outdoor accessibility design guidelines.

⁴ Swimming pools must meet all applicable building and health codes for Cabarrus County and the State of North Carolina.

10.6 Complete Streets Initiative

10.6.1 Vision and Purpose

The City of Concord's Complete Streets Initiative was developed to guide City staff and developers through the process of designing and implementing streets that are safe and convenient to all users. The Complete Streets Initiative is the policy of the City Council. It is the goal of the City Council to provide for the needs of drivers, public transportation vehicles and patrons, bicyclists, and pedestrians of all ages and abilities in all planning, programming, design, construction, reconstruction, retrofit, operations, and maintenance activities and products.

All transportation improvements are opportunities to improve safety, access, and mobility for all travelers in Concord. Bicycle, pedestrian, and transit modes are integral elements of the transportation system. Any changes or improvements to streets should add value to the adjacent land and neighborhoods. Therefore, the City of Concord strongly encourages the design of all streets to:

- Accommodate people of all ages and physical abilities whether they walk, bicycle, use public transit, or drive;
- Integrate connectivity and traffic calming with pedestrian-oriented site and building design to create safe and inviting places;
- Strengthen and enhance neighborhoods without displacing current residents;
- Promote active and healthy lifestyles;
- Integrate environmental stewardship, water management, and energy conservation;
- Vary in character by neighborhood, density, and function.

The implementation of Complete Streets in the City of Concord should effectively help to:

- Encourage people to travel by walking, bicycling, and using public transit;
- Provide transportation options for people of all ages, physical abilities, and income levels;
- Enhance the safety and security of streets;
- Improve the health of people;
- Create livable neighborhoods;
- Reduce paved area, street water runoff into watersheds, greenhouse emissions and other air pollution, and energy consumption;
- Promote the economic well-being of businesses and residents;
- Increase civic space and encourage human interaction;
- Create places with engaging architecture, street furniture, landscaping, and public art that reflect the diversity and cultures of the neighborhood;
- Foster healthy commerce.

10.6.2 Scope

The Complete Streets Initiative applies to all roadway projects within the City of Concord, including those involving operations, maintenance, new construction, reconstruction, retrofits, rehabilitation, or changes in the allocation of pavement space on an existing roadway. This also includes privately built roads intended for public use.

The City of Concord will adhere to the Complete Streets Initiative and will encourage private developers to adhere to the Complete Streets Initiative for all street construction, except under one or more of the following conditions:

- A. A project involves only ordinary maintenance activities designed to keep transportation assets in serviceable condition, such as mowing, cleaning, sweeping, spot repair, resurfacing, concrete joint repair, or pothole filling, or when interim measures are implemented on temporary detour or haul routes;
- B. The City Engineer, Transportation Director, and Planning Director jointly recommend that the construction is not practically feasible or cost effective because of significant or adverse environmental impacts to waterways, flood plains,

remnants of native vegetation, wetlands, mountainsides, or other critical areas; or due to impacts on neighboring land uses, including from right of way acquisitions; or changes to the street may detract from the historical or cultural nature of the street or neighborhood.

Complete streets may be achieved through single projects or incrementally through a series of smaller improvements or maintenance activities over time.

The City of Concord will evaluate each project during the development review process to determine the extent to which the project has implemented Complete Streets elements.

10.6.3 Design Elements

A limited number of model Complete Streets cross-section examples can be found in Article II, Section 3.0 of the City's *Technical Standards Manual (TSM)*. Complete Streets design elements should be considered for incorporation on all new or modified streets. Flexibility exists to consider the unique circumstances of different streets where sound engineering and planning judgment will produce context-sensitive designs. As new and better practices evolve, these will be incorporated as well. Consideration of the context and elements must be brought into the decision-making process. At a minimum, the following design elements should be considered for all streets:

- Keep street pavement widths to the minimum necessary;
- Provide well-designed pedestrian accommodations in the form of sidewalks or shared-use;
- Provide frequent, convenient and safe street crossings. These may be at intersections designed to be pedestrian friendly, or at mid-block locations where needed and appropriate;
- Provide bicycle accommodations along streets, either by designated bike lanes or shared lanes;
- Where physical conditions warrant, provide landscaped buffers between pedestrian and vehicular traffic;
- Provide traffic-calming elements in accordance with the City of Concord's Traffic Calming Policy, found at:

www.concordnc.gov/Departments/Transportation/Policies-and-Regulations;

- Provide accommodations for public transit, such as bus pull-outs and transit stops integrated into the sidewalk system.

10.6.4 Jurisdiction

The City of Concord shall work with the North Carolina Department of Transportation (NCDOT) on state-controlled roads to apply this policy.

The City encourages all private developers to comply with this section and will facilitate the inclusion of Complete Streets during the review processes.

10.6.5 Connectivity

The Complete Streets Initiative shall be in accordance with the Street Connectivity Requirements in Section 10.2.6.

Additionally, opportunities to repurpose rights-of-way and add new rights-of-way to enhance connectivity for pedestrians, bicyclists, and transit should be sought after. Non-motorized connectivity improvements to services, schools, parks, civic uses, regional connections, and commercial have a high priority.

10.6.6 Context Sensitivity

- A. Streets should be in harmony with the adjacent land uses and neighborhoods and should be designed with public input.
- B. Streets should be designed in harmony with natural features such as waterways, slopes, and ravines.
- C. Architecture, landscaping, streetscaping, public art, signage, reflecting the community, neighborhoods, history, and natural settings are encouraged.

10.6.7 Resources

For further information on the implementation of Complete Streets, refer to the following websites:

- <http://www.completestreets.org/>
- <http://www.nccompletestreets.org/>

- Portions of language in this section were adopted and modified from the Los Angeles County 2011 Model Design Manual for Living Streets. For more information, refer to <http://modelstreetdesignmanual.com/index.html>

ARTICLE 11

LANDSCAPING AND BUFFERING STANDARDS

11.1. GENERAL STANDARDS FOR LANDSCAPING AND BUFFERING.

11.1.1. PURPOSE.

The purpose of these landscaping, screening, and buffer requirements is to provide standards that will protect the health, safety and general welfare of the public, enhance property values, improve the appearance of the community, and preserve natural resources, trees, and native plants. Planting yard regulations are established herein to minimize potential conflicts between abutting developments, enhance the appearance of buildings and parking lots, and create a unified and attractive streetscape. These requirements will be applied to all new development, redevelopment or building expansion projects including streetscaping of rights-of-ways. These minimum requirements will:

1. Reduce soil erosion and increase infiltration in permeable land areas essential to storm water management and aquifer recharge;
2. Mitigate air, dust, noise, heat and chemical pollution;
3. Reduce the “heat island” effect of impervious surfaces, such as parking lots, by cooling and shading the surface area and breaking up large expanses of pavement;
4. Establish a landscape theme including street trees and streetscape designs to be used throughout the City to promote the overall character and identity of the community;
5. Address the design of entryways into the City to express the community’s values;
6. Establish a streetscape program;
7. Preserve existing native vegetation as an integral part of the wildlife habitats, and incorporate native plants and ecosystems into landscape design;
8. Promote innovative and cost-conscious approaches to the design,

installation, and maintenance of landscaping while encouraging water and energy conservation;

9. Promote planting techniques that ensures long term health of plant materials;

10. Screen unsightly equipment or materials from the view of persons on public streets or adjoining properties and buffering from uncomplementary land uses;

11. Maintain and increase property values by requiring site appropriate landscaping to be incorporated into development that is designed and installed by a qualified landscape professional.

12. Promote walkable pedestrian-scale streetscapes, traditional neighborhoods, and compact centers by exempting uses which relate to each other functionally and visually from certain requirements of this Section.

11.1.2. GENERAL STANDARDS.

A. Retention of Existing Vegetation. Existing trees, shrubs and ground cover shall be retained and incorporated into the landscape plan to the extent possible.

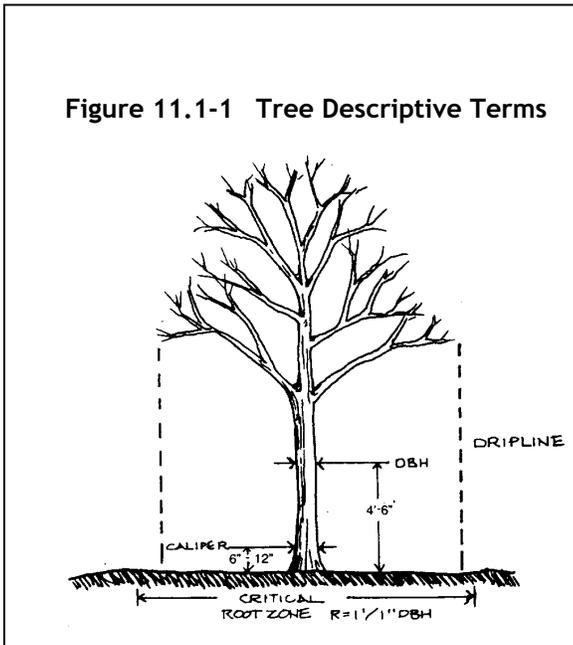
B. Qualified Designer and Installer Required. Landscape materials shall be installed in conformance with the approved landscape plan prepared by in accordance with § 11.2.

11.1.3. INTERPRETATION OF LANDSCAPING TERMS.

Where necessary to interpret the precise meaning of technical landscaping terms used in this Section, reference shall be made to American Nursery and Landscape Association (“ANLA”)(formerly the American Association of Nurserymen), *The American Standard For Nursery Stock*, (1996), which document is hereby incorporated by reference.

A. Definitions. In addition to the definitions set forth in Appendix A to this Ordinance, the following definitions shall apply to the regulation and control of landscaping within this Section.

Figure 11.1-1 Tree Descriptive Terms



1. **ARBORIST:** A qualified professional who has studied the science or art of cultivating trees especially for ornamental use.
2. **CALIPER:** A standard trunk diameter measurement for trees taken six to twelve inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes.
3. **CRITICAL ROOT ZONE (CRZ):** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH with a minimum of eight feet.
4. **CROWN:** The upper mass or head of a tree, shrub, or vine, including branches with foliage. (Source: G. Hightshoe, *Native Trees, Shrubs, and Vines for Urban and Rural America* (New York: Van Nostrand Reinhold & Co., 1988), at 790).
5. **DBH:** Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of 4.5 feet above ground level.
6. **DECIDUOUS:** Plants that lose their leaves annually.

7. **DECIDUOUS TREE:** A tree which sheds or loses foliage at the end of the growing season. (Source: G. Hightshoe, *Native Trees, Shrubs, and Vines for Urban and Rural America* (New York: Van Nostrand Reinhold & Co., 1988), at 790).
8. **DRIP LINE:** A vertical line from a tree canopy or shrub branch extending from the outermost edge to the ground.
9. **EVERGREEN:** Plants that retain their foliage throughout the year.
10. **EVERGREEN SCREEN:** A dense vegetative screen that grows to a minimum of 8 feet in height at maturity and retains foliage year round used for purposes of visual mitigation between zoning districts and/or uses.
11. **EVERGREEN TREE:** A tree which holds green leaves, either broadleaf or needle-shaped, throughout the year. (Source: G. Hightshoe, *Native Trees, Shrubs, and Vines for Urban and Rural America* (New York; Van Nostrand Reinhold & Co., 1988) at 791).
12. **GABION:** A wire basket containing primarily stones deposited to provide protection against erosion.
13. **GROUND COVER:** A prostrate plant growing less than 2 feet in height at maturity that is used for: a) ornamental purposes, b) alternatives to grasses, and c) erosion control on slopes.
14. **HORTICULTURIST:** A qualified professional who has studied the science or art of cultivating plants especially for ornamental use.
15. **LANDSCAPE ARCHITECT:** A landscape architect licensed pursuant to the North Carolina General Statutes.
16. **LANDSCAPE CONTRACTOR:** A landscape contractor, or nurseryman, certified pursuant to the NC Landscape Contractors Registration Board.
17. **LANDSCAPING:** The process or product of site development including grading, installation of plant materials and seeding of turf or ground cover.
18. **NON-LIVING MATERIALS:** Landscaping materials used to complement plants such as river rock, stone, bark, and similar materials.

19.NUISANCE: Any tree or shrub or part thereof that grows upon private or public property which 1) interferes with the use of any public area; 2) is infected with an infectious plant disease or insects; 3) is invasive and damaging to other plants; or 4) which endangers the life, health, or safety of persons or property.

20.PLANTING YARDS: The required installation of landscaping and/or screening material between zoning districts and certain individual uses. The four Planting Yards are as follows:

a. BUFFER YARD: A planting yard comprised of a strip of land Containing landscaping and/or screening materials, having a varying minimum width, located along side and rear property lines between zoning districts and/or between certain individual uses, as specified in this Article.

b. BUILDING YARD: A planting yard comprised of a strip of land Containing landscaping materials located along the front and/or sides of a building and having a varying minimum width, as specified in this Article.

c. PARKING LOT YARD: A planting yard comprised of a strip, or strips of land containing landscaping materials located around and within a parking lot and having a varying width, as specified in this Article.

d. STREET YARD: A planting yard comprised of a strip of land containing landscaping materials located along and parallel to a public street, or streets and having a varying minimum width, as specified in this Article.

21.SCREEN: Vegetation, fence, wall, berm or a combination of any or all of these which partially or completely blocks the view of and provides spatial separation of a portion or all of a site from an adjacent property or right-of-way.

22.SHRUB, LARGE: An upright plant growing to a mature height of more than 8 feet for use as natural ornamentation or screening.

23.SHRUB, MEDIUM: An upright plant growing to a mature height of 4 to 8 feet.

24.SHRUB, SMALL: An upright plant growing to a mature height of less than 4 feet.

25.SIGNIFICANT STANDS OF TREES OR SHRUBS: A massing or group of trees or shrubs which are (1) in good condition and are established on the site, or (2) which may be among the earliest grown species of the area, or (3) which have been identified by the community with a particular area.

26.STREET TREE: A tree planted along a public street or roadway behind or within the right-of-way.

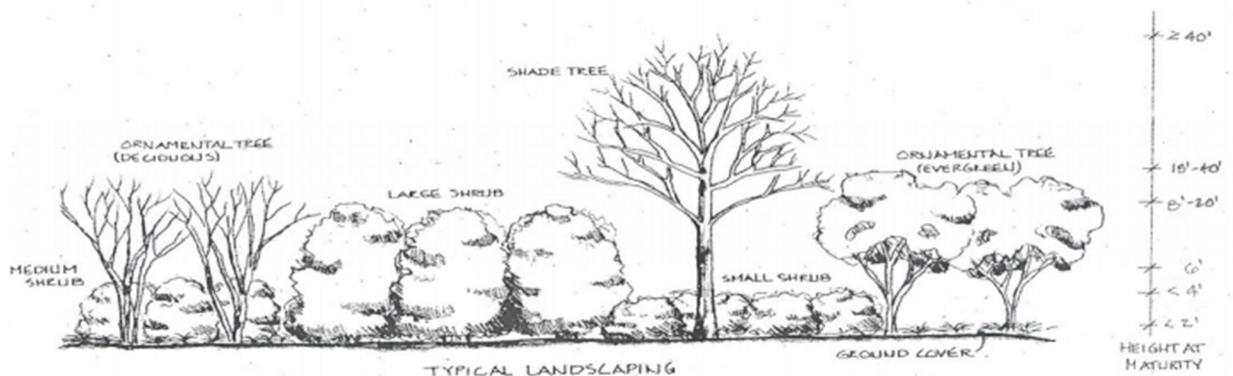
27.TREE, ORNAMENTAL: A small to medium tree, growing to a mature height of 15 to 40 feet and characterized by specific aesthetic qualities, such as colorful flowering, interesting bark or brilliant fall foliage.

28.TREE, SHADE: A large tree growing to a height of 40 feet or more at maturity, usually deciduous, and characterized by its ability to provide canopy cover shade.

29.VINES: A woody plant that spreads as it grows over the ground, walls or trellises.

30.XERISCAPE: Landscaping with native plants that utilizes the existing environmental conditions to the best advantage, conserving water and protecting the native environment.

Figure 11.1.-2 Landscape Plants Typical Sizes



11.2 LANDSCAPE PLAN.

11.2.1. PLAN REQUIRED.

Landscape plans shall accompany any application for site plan approval. Landscape plans shall be submitted in conformance with the requirements of Table B-2, Appendix B to this Ordinance.

11.2.2. PERMITS REQUIRED.

All required landscaping materials shall be in place prior to the time of issuance of a final Certificate of Compliance (as required in Article 3).

Performance Guarantee. Subject to the conditions as specified in § 6.5 of this Ordinance, a temporary Certificate of Compliance may be issued for occupancy of a structure or initiation of a use prior to the completion of installation of all required planting yards.

11.3.3. VIOLATIONS.

Failure to maintain required landscaping or to adhere to an approved landscaping plan shall constitute a zoning violation, subject to any and all remedies set forth in § 1.6 of this Ordinance.

11.3 PLANTING YARDS.

11.3.1. PURPOSE.

Planting yards are intended to aesthetically enhance and separate different land uses and zoning districts from each other, as well as to beautify individual sites, the roadside or streetscape, and are intended to eliminate or minimize potential nuisances such as dirt, litter, glare of lights, and unsightly buildings or parking areas. Planting yards shall include the following:

1. Buffer Yards (see § 11.4)
2. Building Yards (see § 11.5)
3. Parking Lot Yards (see § 11.6)
4. Street Yards (see § 11.7)

11.3.2. APPLICABILITY. Planting yards shall be required for all uses except:

1. agricultural uses as listed in Table 8.1.8 of this Ordinance;
2. any building or structure for which only a change of use in the same categories as the last permitted use, per Table 8.18 is requested (for expansions or additions to existing structures, see Sections 7.10 and 7.11 for applicability);
3. developments in the CC District (except that the Parking Lot yard requirements of § 11.6 shall apply);
4. developments in a TND or PUD District, however, a Master Plan showing that proposed landscape in the development meets the intent of this Section 11.3, Planting Yards, shall be submitted at the time of rezoning;
5. sites containing unoccupied public utility equipment that are less than 1,000 square feet in area, except that all electrical substations shall install a minimum Type B buffer per § 11.4.

A. Expansion of Uses. The expansion of an existing use, structure or parking lot shall be required to comply with this Section only for the expansion area. Applicants are encouraged, but not required, to landscape existing areas in conformance with this Section.

1. Different uses shall require different planting yards. Minimum

dimensions shall apply and be measured horizontally. Plant quantities, in most cases, shall be based upon a point system.

2. For the purpose of this section, building setbacks (as listed in Table 7.6.2 B) shall supersede planting yard requirements.
3. Landscaping as required within a planting yard shall be counted for only that planting yard and shall not be used in calculating the minimum quantity for any other planting yard.
4. The point system, as partially illustrated in Table 11.3-1, is established to ensure that a minimum level of landscaping is achieved during development. It sets forth the points attributable to the five different plant types that are required in the three planting yards subject to the point system. Table 11.3-1 is to be used in conjunction with the other tables in this Article to determine total landscaping required. This table is applicable to planting yards, as well as in determining credits for tree preservation.
5. When calculating points, or quantities of plants, fractions shall be rounded upward to the higher whole number for decimals of .5 and higher. Decimals below .5 shall be rounded downward to the lower whole number.

Table 11.3-1: Points for Individual Plant Types

Type of Plant	Points
Shade Tree	12
Ornamental Tree	6
Large Shrub	3
Medium Shrub	2
Small Shrub	1

Total landscaping required for buffer yards, building yards and street yards is determined by multiplying the length of the respective planting yard by the minimum required points per linear foot shown in the landscaping requirements tables for each of the three planting yards subject to the point system. The resultant total point figure

determines the total amount of landscaping required for the respective planting yard. In some cases, the tables which set forth the planting yard landscaping requirements include a minimum required number of individual plant types, such as shade trees, or large shrubs. In those instances, the minimum number of individual plants types required shall be considered included as part of the total landscaping required.

11.4. BUFFER YARDS.

11.4.1. **PURPOSE.** The purpose of buffer yards is to:

1. provide a transitional buffer between uses that may differ in development intensity and density; or
2. provide a minimum buffer between uses of similar intensity and density.

These landscaped planting yards are intended to ensure that a natural area of appropriate size and density of plantings is planted or preserved between zoning districts and/or uses. Buffer yards shall be of different types, based upon the relationship between the two adjacent land uses between which the buffer yard is to be located. The width of the buffer yard and the density of plantings shall increase as the difference between adjacent land uses increases. Minimum dimensions shall apply, and be measured, horizontally. Widths shall be measured from the respective property line, except where buffer yards are permitted to straddle property lines, as set forth in § 11.4.4.7. Where buffer yards turn at property corners, the length measurements determining plant quantities shall not be required to overlap.

11.4.2. **YARD TYPES.**

There shall be five different classes of land uses for purposes of determining the buffer yard type. Land use classes shall be based upon the specific land use to be developed, which is permitted either by right or conditionally, in the following groupings of zoning districts or land use groupings as listed in the Use Matrix of Table 8.6-1 of this Ordinance:

Class 1

AG Agricultural

RE Rural Estate

RL Residential Low Density

RM-1 Residential Medium Density

RM-2 Residential Medium Density

Residential uses - single-family detached homes and duplex only

Class 2

RV Residential Village

RC Residential Compact

Residential uses - other than Class 1

Class 3

B-1 Neighborhood Commercial/Office
O-I Office-Institutional
C-1 Light Commercial and Office
Institutional and Civic uses
Professional Office/Business Services uses

Class 4

C-2 General Commercial
CD Campus Development
PID Public Interest District
Retail Trade uses
Wholesale Trade uses

Class 5

I-1 Light Industrial
I-2 Heavy Industrial
Manufacturing and Industrial uses
Transportation, Warehousing and Utilities uses

- A. *Table 11.4-1 identifies the buffer yard type required for a given development, based on the relationship between the adjacent land uses. If an adjoining parcel is undeveloped, the minimum buffer shall be determined based on the zoning of the adjoining property. Table 11.4-2 contains the required plantings and dimensions of the respective buffer yard types. The width of the buffer yard and the density of plantings increase as the difference in the nature and intensity of development in the respective adjacent land uses increases.*

Table 11.4-1: Buffer Yard Chart

Buffer Yard Types For Adjacent Land Use Classes					
Land Use Class	1 EXISTING	2 EXISTING	3 EXISTING	4 EXISTING	5 EXISTING
1 PROPOSED	N/A	N/A	N/A (B ²)	N/A (C ²)	N/A (D ²)
2 PROPOSED	A	A	B	C	D
3 PROPOSED	B ¹	B ¹	A	A	C
4 PROPOSED	C ¹	C ¹	B ¹	A	B
5 PROPOSED	D ¹	D ¹	C ¹	B ¹	N/A

1. Complete visual separation is required through the use of densely planted landscaping that would provide complete visual separation within three (3) years of planting. See Section 11.4.4.8 regarding visual separation.
2. New single-family subdivisions shall provide the required buffer yard, if they abut existing non-residential developments which were constructed before the adoption of this Ordinance and lack the required buffer yard. If an adjacent non-residential development includes the required buffer yard, none shall be required of the residential subdivision.

Table 11.4-2: Buffer Yard Landscaping Requirements

Buffer Yard Type	Minimum Width	Min. Required Shade Trees	Min. Required Ornamental Trees	Min. Required Large Evergreen Shrubs	Min. Required Points per Linear Foot
A	8'	1/100'	Optional	Optional	0.2
B	15'	1/75'	1/100'	Optional	0.7
C	20'	1/50'	1/75'	Optional	1.0
D	50' or 25' w/ 6' high berm	1/50'	1/50'	Optional	1.2 or 0.9 w/ 6' high berm

11.4.3. EXEMPTIONS.

In addition to the exemptions as set forth in § 11.3.2, certain uses are exempt from the buffer requirements as described in this section. Exemptions include, but are not limited to the following:

- A. Lot or parcels on which the uses or buildings demonstrate compatible design elements and are linked to adjacent lots or buildings by a common system of sidewalks or other pedestrian walkways across property lines; and
- B. Lots or parcels separated by a public street right-of-way greater than 30 feet in width;
- C. Lots or parcels separated by a railroad right-of-way.
- D. Between similar land uses if one (1) of the following scenarios exists:
- E. In instances where similar or compatible land uses are immediately adjacent to one another and the installation of a Buffer Yard between the uses would negate the effectiveness of the development of those properties or impede the flow of traffic and pedestrians; or
- F. In instances where similar or compatible land uses are immediately adjacent to one another and the change in the topography is such that the installation of a Buffer Yard between the uses would negate the effectiveness of the requirement for a Buffer Yard.
- G. Such an exemption, if granted, would be subject to the following conditions:
 - 1. The developer would be required to provide the City of Concord Plan Review Service Center with sketches and calculations as outlined below:
 - a. A Sketch Plan for each of the individual properties that would be part of the proposed Coordinated Development that would show how the individual properties would meet the current CDO requirements for Screening and Buffer Yards. The developer must also provide calculations demonstrating the required quantity of plant materials and the ratio of pervious to impervious area; and
 - b. A Sketch Plan for a Coordinated Development. The Sketch Plan would have to show that the quantity of proposed landscaping for the Coordinated Development is equivalent to or greater than that which is indicated on the Sketch Plan(s) for the individual properties prepared per the current CDO requirements under item 1 above. The developer must also provide calculations showing that

the ratio of pervious to impervious area is equivalent to or greater than the ratio of such as indicated on the Sketch Plan(s) for the individual properties prepared per the current CDO requirements under item 1 above.

1. The developer agrees that being exempted from the Buffer Yards requirements between similar land uses does not release a developer from providing the required number of equivalent points for landscaping or from meeting the required pervious to impervious ratio.
2. The developer must provide written permission from the property owners involved in the Coordinated Development who have had the opportunity to review the Sketch Plan as required under Item 1 above and agree with the overall design and placement of landscaping materials.
3. The developer must understand and agree that all other standards as required under the CDO must be complied with.

Should a developer not agree to all of the above conditions, all Buffer Yards associated with development must be installed per the current requirements of the CDO.

11.4.4. STANDARDS FOR BUFFER YARD DEVELOPMENT.

- A. **Prohibited Uses.** The construction of any building or the placement of any mechanical equipment within the landscape buffer yard is not permitted except for equipment necessary for the provision of utilities. Signs may be placed within the buffer yard consistent with the Sign Regulations of this Ordinance. Active recreational uses, such as play fields, swimming pools, racquetball and tennis courts or other active, structured recreational uses, or circulation drives and parking lots, shall not be permitted in the buffer yard.
- B. **Permitted Uses.** The following other uses may be permitted in a buffer yard provided that none of the required plant material is eliminated, the intended screening is accomplished, the total width of the buffer yard is maintained, and all other requirements of this Section are met:
 1. passive recreation;

2. Sculpture, outdoor furniture, picnic areas; pedestrian, bike or equestrian trails; golf courses,
3. storm water retention basins;
4. parks and open space.

C. Reduction in Required Buffer Yard Permitted. Where a dedicated buffer yard exists on an abutting property, a reduction or elimination in a buffer yard for a property to be developed may be allowed subject to the following:

1. the adjoining property owners have provided a written agreement restricting the use of the dedicated buffer yard to uses provided for in this Section
2. maintenance of the existing buffer yard consistent with the requirements of this Section, the Administrator may approve a reduction in the required buffer yard for the property to be developed
3. the “net” buffer yard satisfies the minimum buffer yard requirements of this Section. The net buffer shall include the cumulative total for both required buffers.

D. Existing Vegetation. Existing healthy vegetation may be counted toward required landscaping. In order to do so, the landscape plan shall indicate the type, number and size of existing plants which are sufficient to comply with the respective buffer yard. It shall not be necessary to indicate the total inventory of existing plants. Only plants required to meet the provisions of this Ordinance shall be required to be listed.

E. Application Toward Setback Requirement. Buffer yard areas shall be counted towards required building setbacks.

F. Designation of Buffer Yard as Landscaped Area. Buffer yards shall be designated as landscaped areas on the application for development approval and as landscape easements when shown on a subdivision plat. The buffer yard shall be recorded with the title of the property as a landscape buffer yard easement.

G. Buffer Yard On Property Line. When platting abutting lots, the applicant may dedicate a buffer yard that straddles the property line, provided the cumulative buffer width is maintained for both yards.

H. Visual Separation. Where complete visual separation is required, that may be accomplished through the use of landscaping which provides year-round opaque screening within 3 years of planting, earth berms, or masonry walls, or a combination of two or more of these techniques.

11.5 BUILDING YARDS.

11.5.1. PURPOSE AND APPLICABILITY. The purpose of building yards is to aesthetically and visually enhance the appearance of buildings. Building yards shall be provided along the portion(s) of the building facing any adjacent off-street parking area, excluding loading/unloading areas. Minimum dimensions shall apply, and be measured, horizontally. Widths shall be measured from the respective building front wall. Where building yards turn at building corners, the length measurements determining plant quantities shall not be required to overlap. Building yards shall be of different types, based upon the size of the structure around which the building yard is to be located. The width of the building yard and the density of plantings shall increase as the size of the structure around which the building yard is to be located increases. Entrance walkways to buildings may cross building yards. The width of the entrance walkway shall not be calculated as part of the length of the building yard for purposes of determining the total required landscaping, provided, however, that the width deducted for the entrance walkway shall not exceed the width of the entrance to the building.

11.5.2. YARD TYPES.

There shall be four different categories of building size for purposes of determining the building yard type:

Category 1

Less than 2,500 Square Feet GFA (Gross Floor Area)

Category 2

2,500 Square Feet to 9,999 Square Feet GFA

Category 3

10,000 Square Feet to 99,999 Square Feet GFA

Category 4

100,000 Square Feet GFA and over

A. Table 11.5-1 identifies the building yard required for a given development, based on the size of the structure around which the building yard is to be located, and specifies the required plantings and dimensions of the respective building yard.

Table 11.5-1: Building Yard Landscaping Requirements

Building Yard Category	Minimum Width	Min. Required Shade Trees	Min. Required Ornamental Trees	Min. Required Small or Medium Evergreen Shrubs	Min. Required Points per Linear Foot
1	6 feet	N/A	1 per 30 lin. Feet	8 per 30 lin. Feet	0.4
2	8 feet	N/A	1 per 30 lin. Feet	8 per 30 lin. Feet	0.5
3	12 feet	1 per 50 lin. Feet	1 per 50 lin. Feet	12 per 30 lin. Feet	0.8
4	16 feet	1 per 50 lin. Feet	1 per 50 lin. Feet	16 per 30 lin. Feet	1.0

11.6 PARKING LOT YARDS.

11.6.1 PURPOSE AND APPLICABILITY. The purpose of parking lot yards is to aesthetically and visually enhance the appearance of parking lots. Parking lot yards shall be located around and within parking lots and shall be of different sizes, based upon the size of the respective parking lot. The size of the parking lot yard shall increase as the size of the respective parking lot increases. Minimum dimensions shall apply, and be measured, horizontally. The requirements of this section shall apply to all new and expanded (10 or more added spaces) parking lots and parking lots of land uses that have substantially changed. If an existing parking lot (paved or unpaved) is expanded or improved to add 10 or more spaces, it shall comply with the parking lot landscaping requirements within the expanded or improved portion. If a parking lot is expanded or developed, then street yard, buffer yard and parking lot yard landscaping requirements shall be applicable.

11.6.2 DESIGN CRITERIA.

A. Minimum Net Area of Landscaping. Parking lots shall provide a minimum 10% net area of landscaping on the interior or exterior of parking lots.

B. Minimum Quantity of Landscape Plantings. Landscaped planting areas and islands for parking lot yards shall have one (1) shade tree, or two (2) ornamental trees, and eight (8) small shrubs per each ten (10) parking spaces.

C. Minimum Planting Area Dimensional Requirements. Planting areas and islands shall be not less than eight (8) feet in width and shall include a minimum of 150 square feet of open planting area for ornamental trees and 300 square feet for canopy trees. Shrubs, or ground covers may be planted within the required open planting area for trees without increasing the area. Planting areas and islands shall have a minimum prepared depth of 18 inches. All landscaped areas shall be protected from vehicular encroachment by concrete curb and gutter. Landscaped areas shall be covered with mulch, ground cover or grass between shrub and tree plantings.

D. Location of Trees. Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.

11.6.3 EXCEPTIONS.

In instances where the strict interpretation of this Section will seriously limit the function of the parking area, increase stormwater runoff, or create ponding or pooling of water so as to impair the habitability of buildings or interfere with traffic circulation, the Administrator may permit a portion of the required landscaping to be located near the perimeter of the lot.

11.7 STREET YARDS.

11.7.1. **PURPOSE.** The purpose of street yards is to provide continuity of vegetation along the street right-of-way, creating a pleasing view from the road, and establishing a transition from vehicular thoroughfares, pedestrian areas or the built environment. Minimum dimensions shall apply, and be measured, horizontally. Widths shall be measured from the respective right-of-way/property line. Where street yards turn at street corners, the length measurements determining plant quantities shall not be required to overlap. Street yards shall be of different types, based upon the zoning of the property. The width of the street yard and the density of plantings shall increase as the intensity of the development increases. Street Yards shall not lie within any public utility easements for water, sewer, electric and/or telecommunication. Private utilities will be discouraged within street yards.

11.7.2. **APPLICABILITY.** Street yards shall be required for all developments subject to this Ordinance.

11.7.3. **YARD TYPE.**

There shall be four different classes of street yard based on zoning or intended use for purposes of determining the street yard type.

The intent of Class 1 Street Yards is to create shade for sidewalks and public streets within residential neighborhoods. The intent of Class 2-4 Street Yard is to create an opaque screen between commercial development and street right of ways.

Class 1

RE Rural Estate
RL Residential Low Density
RM-1 Residential Medium Density
RM-2 Residential Medium Density
RV Residential Village
RC Residential Compact
Single family detached/attached residential use

Class 2

B-1 Neighborhood Commercial/Office
O-I Office Institutional
C-1 Light Commercial and Office

Multi-family residential
 Institutional and Civic uses
 Professional Office/Business Services uses

Class 3

C-2 - General Commercial
 CD - Campus Development
 PID - Public Interest District
 Retail Trade uses
 Wholesale Trade uses

Class 4

I-1 Light Industrial
 I-2 Heavy Industrial
 Manufacturing and Industrial uses
 Transportation, Warehousing and Utilities
 uses

- A. Table 11.7-1 contains the required plantings and dimensions of the respective street yard types.

Table 11.7-1: Street Yard Landscaping Requirements

Street Yard Level	Minimum Width	Min. Required Shade Trees**	Min. Required Points per Linear Foot
1 See 11.7.4	8'	1 per 40' to 50' depending on utilities and possible conflicts	0.24
2	8'	1 per 40' to 50' depending on utilities and conflicts	0.4
3	8'	1 per 40' to 50' depending on utilities and possible conflicts	0.5
4	12'	1 per 40' to 50' depending on utilities and possible conflicts	0.6

** The administrator may approve the replacement of one shade tree with two ornamental trees if large shade trees will cause conflict with infrastructure. The conflicts must be identified by the applicant on the landscape plan.

11.7.4. Level 1 Residential Street Yard Requirements

1. Class 1 Residential Street Yards shall be located in the street right-of-way planting strip between the curb and sidewalk. The use of a level 1 Street Yard for commercial development would require Administrator approval.
2. Before planting, the soil within the planting strip shall be de-compacted by mechanical tillage to a minimum depth of 24 inches along the entire planting strip. The soil shall also meet the requirements of 11.8.3.

11.7.5 DESIGN CONSIDERATIONS.

- A. Overhead Power Lines.** During redevelopment or upgrades to existing built sites, landscaping shall be improved to meet current requirements. The presence of existing overhead power lines within the street yard, will requires street yard trees to be ornamental trees. Larger shade tree varieties are encouraged where overhead power lines are not present. (see Fig. 11.7-1, below)

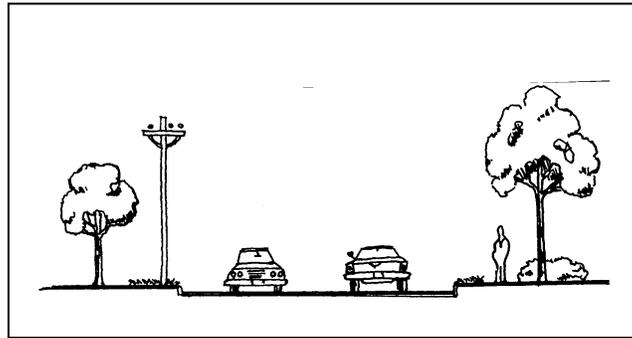
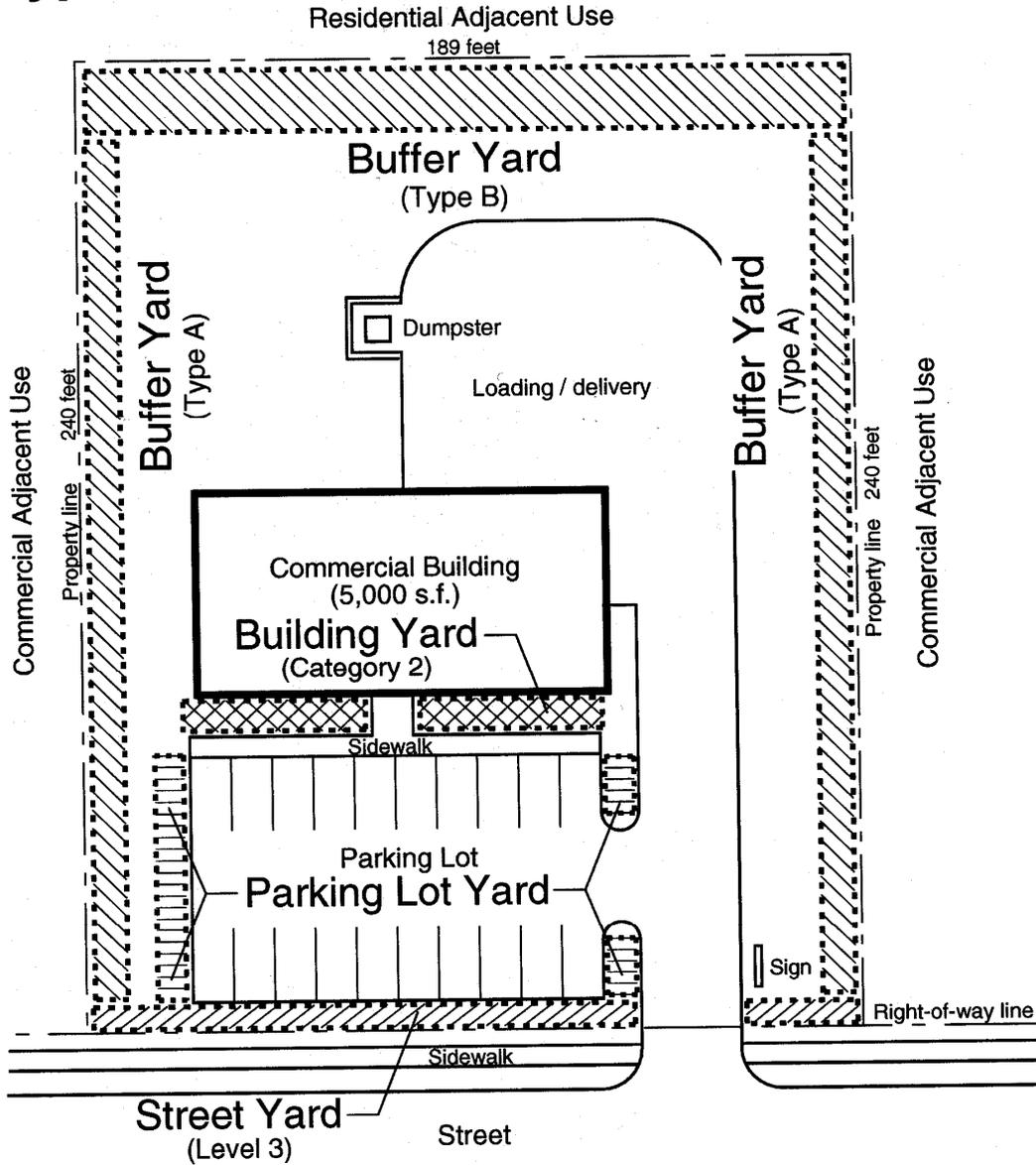


Figure 11.7-1

- B. Site Triangles.** Corner lots, and in situations where driveways and alleys intersect with street rights-of-way, shall be kept free of landscaping and plant materials that interfere with the vision of a motorist or pedestrian. Street trees shall not be planted on public streets within 75' of a Stop condition.

Figure 11.7-2 Planting Yards Typical Diagram

Typical Planting Yard Illustration



Planting Yards

Buffer Yard - To separate and buffer different land uses

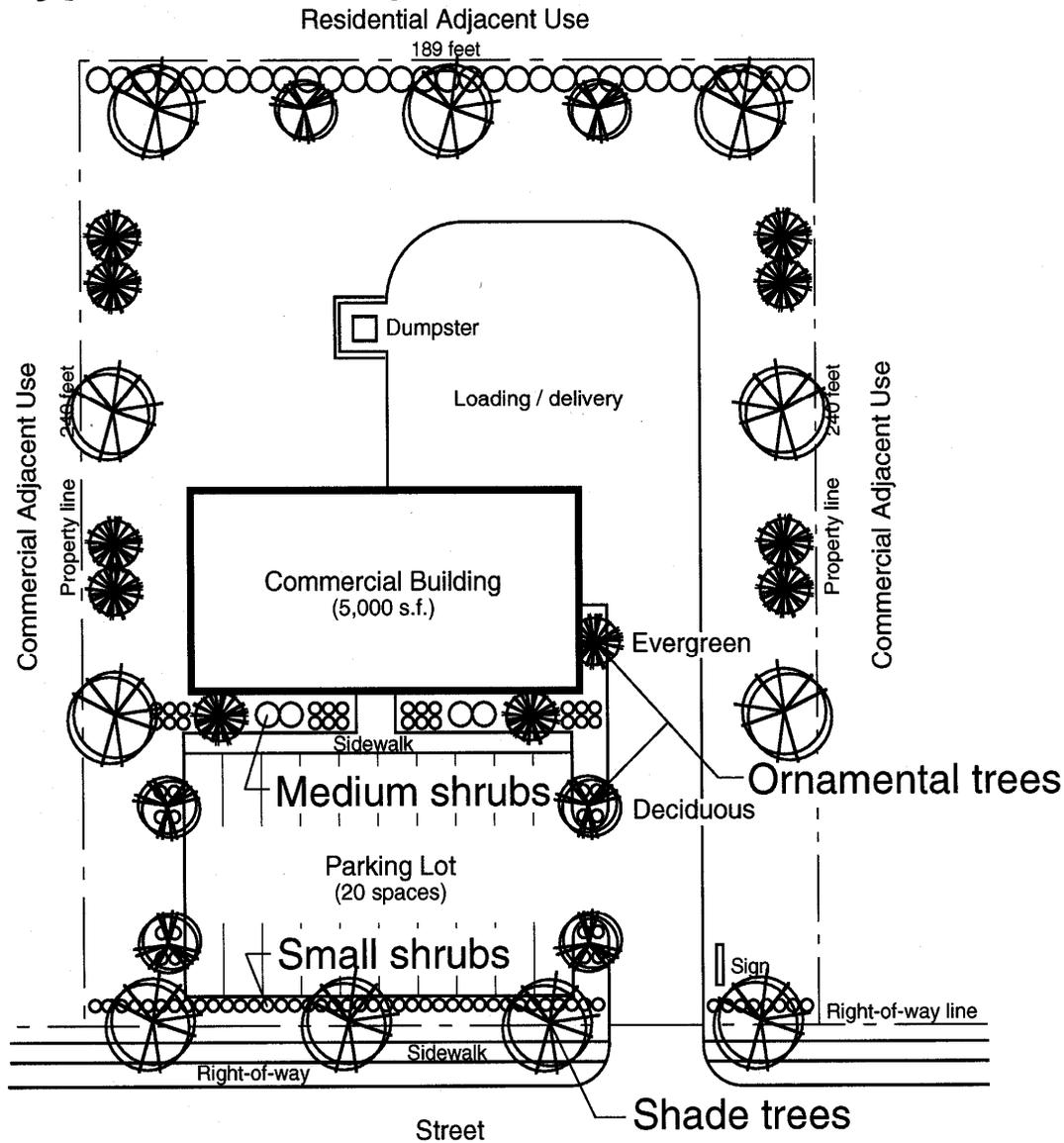
Building Yard - To enhance the aesthetic appearance of buildings

Parking Lot Yard - To enhance the aesthetic appearance of parking lots

Street Yard - To establish a coordinated pattern of tree plantings and other landscaping along streets

Figure 11.7.3 Planting Yards Typical Plan

Typical Planting Yard Illustration



- Planting Yards** - Commercial abutting residential and commercial
- Buffer Yard** - Type B - 1 shade tree per 40 feet as part of 0.8 points per foot
- Building Yard** - Category 2 - 1 ornamental tree and 8 small shrubs per 30 feet as part of 0.5 points per foot
- Parking Lot Yard** - 2 ornamental trees and 8 shrubs per 10 parking spaces
- Street Yard** - Level 2 - 1 shade trees per 50 feet as part of 0.5 points per foot

11.8. SPECIFICATIONS FOR PLANT MATERIALS AND INSTALLATION.

11.8.1. SIZE STANDARDS.

The minimum allowable plant size for new installations shall be as set forth herein. Due to the variation between genus and species, the caliper or height necessary for newly installed plant materials may vary. As a general rule, the caliper or diameter of trees shall be measured 6 inches from the ground level up to a 4-inch caliper diameter and at 12 inches for 4-inch caliper diameter or greater. The height of shrubs shall be a minimum of 24 inches as measured at ground level to the top of the densest portion of the top of the shrub or hedge.

- A. Shade Trees.** Shade trees shall measure a minimum 2 to 2.5-inches in caliper, and 10 to 12 feet in height at the time of planting.
- B. Ornamental Trees.** Ornamental trees shall measure a minimum 1.5 to 2- inches in caliper for single-stem trees or 1 to 1.5-inches in caliper for multi-stem trees, and 6 to 8 feet in height at the time of planting.
- C. Large Shrubs.** Large shrubs, normally planted for screening, shall measure a minimum of 3 to 3½ feet in height at the time of planting. Shrubs planted for screening purposes shall form the required density to block visibility within three (3) years from the date of installation.
- D. Small Shrubs.** Small shrubs shall measure a minimum of 18 to 24 inches in spread and/or height at the time of planting. A mix of deciduous and evergreen shrubs is encouraged in order to obtain a variety of color and texture throughout the year.
- E. Ground Cover (Organic).** Organic ground covers shall provide 100 percent coverage on the ground within three (3) years of installation. Except for seeding, grass or turf shall provide 100 percent coverage upon installation. Organic mulch may be used around plantings to maintain soil moisture and prevent the growth of weeds.
- F. Ground Cover (Inorganic).** Inorganic ground covers consisting of river rock or similar materials may be used provided they do not exceed 20 percent coverage of the required landscape planting area.

11.8.2 SELECTION OF PLANT MATERIALS.

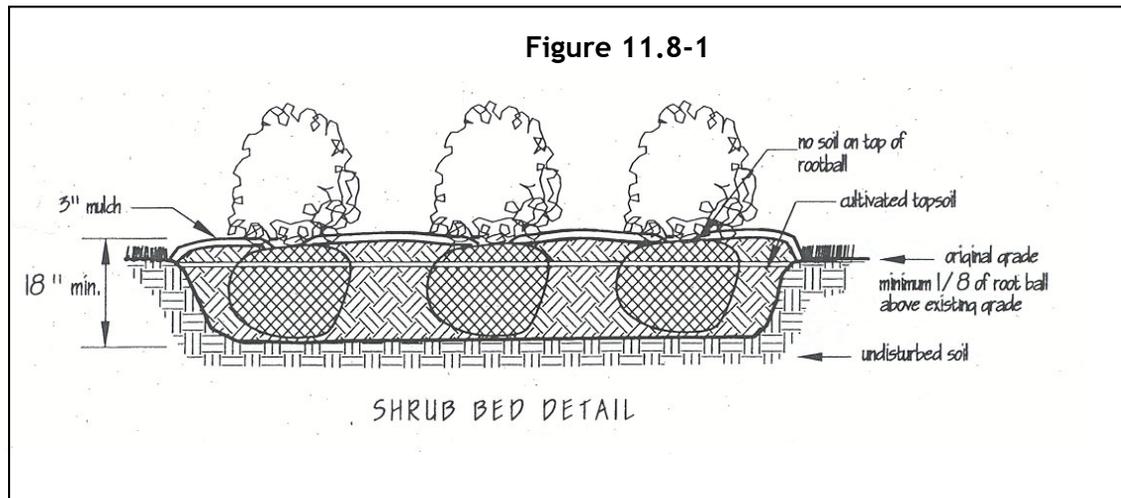
All plant material, except Ground Covers, shall be selected from Table 11.1-1 Acceptable Plant Species. Consideration shall be given to the environmental conditions of the site, such as soil, topography, climate, microclimate, pattern of sun movement, prevailing winds and precipitation, and air movement to ensure that plant materials will be established successfully. Tree selection for street yards, or other locations within utility rights-of-way, shall consider the presence or planned addition of overhead utility lines. Such trees shall be small and medium trees that are pest- and disease-resistant and are slow growing.

- A. Substitution of Plant Materials.** The Administrator shall have the authority to approve the installation of comparable substitution plant materials to satisfy the requirements of the approved landscape plan when the approved plants and landscape materials are not available at the time that installations are to occur, or when other unforeseen conditions prevent the use of the exact materials shown on the approved landscape plan. Significant changes that require the replacement and relocation of more than 25 percent of the plant materials shall require a new landscape plan and approval through the plan review process.
- B. Mix of Genus and Species Encouraged.** Except for Street Yard trees (§ 11.7), a mix of genus and species of trees, shrubs, ground covering, perennials and annuals is encouraged in order to avoid potential loss due to infectious disease, blight, or insect infestation. Street Yard Trees should retained a reasonably uniform pattern along both sides of a street within the same block or corridor.

11.8.3. STANDARDS FOR INSTALLATION OF LANDSCAPING MATERIALS.

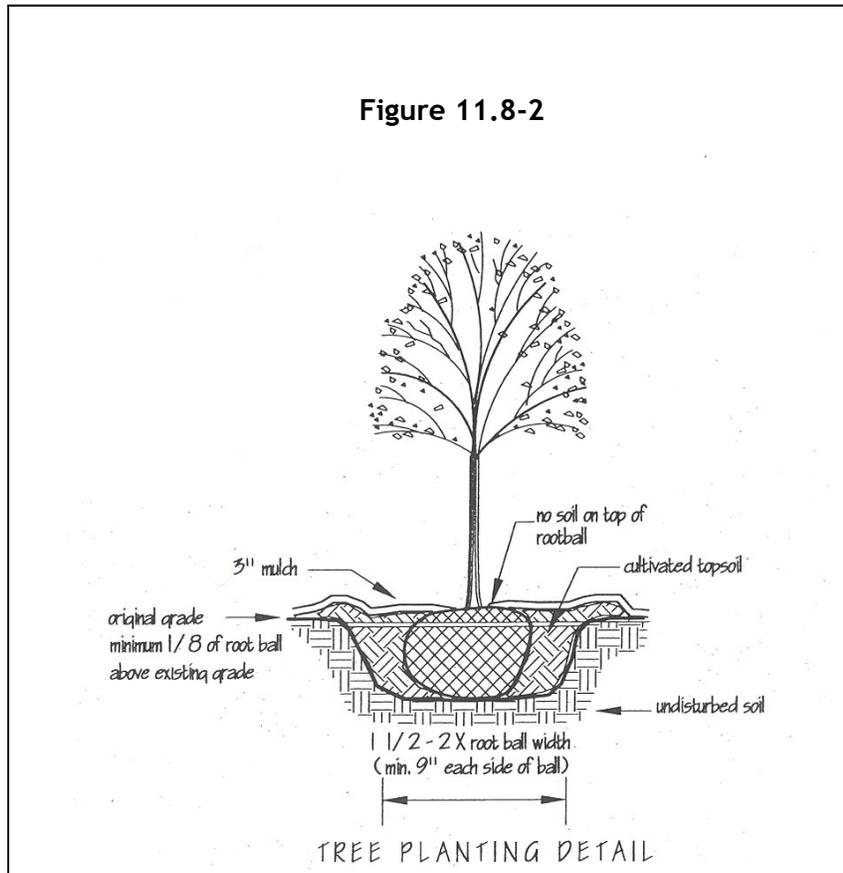
- 1. Plant Pit, Hedge Trench and Shrub Bed Preparation.** Preparation of plant pits, hedge trenches and shrub beds shall be done in conformance with Leaflet No: 601, *Planting Techniques for Trees and Shrubs*, North Carolina Cooperative Extension Service, (1997), which is incorporated by reference hereto and the following procedures:
- 2. Site Maintenance During Construction.** Equipment, wood and similar objects shall not be stored or laid upon the critical root zone area during

or after construction. Chemicals and liquid construction wastes shall not be dumped, poured or spilled in the area of any plant materials. Washing of concrete mixers shall not be done near the site.



- A. Excavate pits with vertical sides approximately the depth of the rootball and with a circular outline which shall be approximately 2 to 3 times wider than the rootball. For planting pits, beds or trenches which are to be developed where paving existed previously, all paving and base stone shall be removed as part of the excavation.
- B. Remove rock, debris, inorganic compositions and chemical residues from soil in planting pits.
- C. Cultivate shrub planting pits to a minimum depth of 18 inches. Ground cover and vine planting pits shall be cultivated to a minimum depth of 12 inches.
- D. Install root ball on a flat, compact surface of undisturbed soil and remove any inorganic ties on top of the rootball. Remove the top 1/3 of wire baskets.
- E. Leave the top of the tree root ball exposed, to be covered by mulch only.
- F. Finish the planting with a minimum 3-inch layer of mulch of pine needles, tree bark or similar materials distributed around the tree trunk.

- G. Prepare soil, plant, fertilize, mulch, and control insects and disease in conformance with the North Carolina Cooperative Extension Service, *Landscape Management Calendar*, which is incorporated by reference hereto.
- H. Re-establish native plants salvaged from the site or relocated as a result of grading in conformance with the recommendations of the North Carolina Cooperative Extension Service.
- I. Support trees and shrubs adequately when planted in order to avoid interference with their typical growing patterns.



11.8.4. GENERAL MAINTENANCE OF LANDSCAPING AND SITE.

- 1. The applicant, property owner, and/or subsequent or successor owner, and

their agents, including tenants, shall be jointly and severally responsible for maintenance of landscaping on the property on a continuing basis for the life of the development as specified in this Section. All required landscaping shall be maintained in a neat and orderly manner at all times.

This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding and other activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other materials or plants not a part of the landscaping.

2. Required landscaping shall be maintained in perpetuity, in accordance with § 11.8.4.1. After initial installation, it shall be the responsibility of the owner and/or tenant of the property upon which the landscaping is installed to maintain all required plantings in a healthy, vigorous and attractive state, or replace dead, diseased or deteriorated plants. Within residential subdivisions, the maintenance of street trees in planting strips between curbs and sidewalks which are within the street right-of-way shall be the responsibility of the respective homeowners association, or the abutting homeowner, in the absence of a homeowners association.
3. If after three (3) years following installation of required screening plant materials, the plants have not formed an effective screen, or if an effective screen is not maintained, the Administrator may require that another type of screen be added or additional plantings be installed. Landscaped areas shall require protection from vehicular encroachment. The Administrator shall inspect all landscaping and no Certificate of Occupancy or similar authorization will be issued unless the landscaping meets the requirements of this Ordinance.
4. All required plant material shall be maintained in a healthy, growing condition as is appropriate for the season. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated. Dead plants shall be promptly removed and replaced within the next planting season after removal. If replacement is necessary, all plants and other non-living landscape materials shall be equal in size, density and appearance as originally required at the time of the approval of the development permit.

11.8.5. UTILITY RIGHT-OF-WAY TREE TRIMMING.

Utility crews and companies are encouraged to do directional pruning of branches interfering with utility lines to prevent damage, disfigurement and heavy suckering and reduce future pruning needs. Utility tree trimmers are encouraged to remove branches to laterals (drop-crotching) in order to direct tree growth away from utility lines. Directional pruning includes top trimming, side trimming, under trimming and through trimming.

Table 11.8-1 Acceptable Plant Species.

The following list of plant species includes shade trees, ornamental trees and shrubs which are acceptable for landscaping in this area of North Carolina. A few species are labeled as “discouraged” due to marginal hardiness in this zone, to disease susceptibility, or to overuse.

Shade Trees

<u>Botanical Name</u>	<u>Common Name</u>
Acer rubrum	Red maple
Acer saccharum	Sugar maple
Amelanchier canadensis	Serviceberry
Betula nigra	River birch
Carya illinoensis	Pecan
Carya ovata	Shagbark hickory
Carya glabra	Pignut hickory
Carya cordiformis	Bitternut hickory
Cedrus deodara	Deodar cedar
Celtis occidentalis	Hackberry
Cupressocyparis leylandii	Leyland cypress (discouraged)
Diospyros virginiana	Persimmon
Fagus grandiflora	American beech
Fraxinus americana	White ash
Fraxinus pennsylvanica	Green ash
Ginkgo biloba	Ginkgo
Juniperus virginiana	Eastern red cedar
Liquidambar styraciflua	Sweetgum
Liriodendron tulipifera	Tulip poplar
Magnolia grandiflora	Southern magnolia
Nyssa sylvatica	Black gum
Pinus echinata	Short leaf pine
Pinus nigra	Austrian pine
Pinus thunbergi	Japanese black pine
Pinus taeda	Loblolly pine
Pinus virginiana	Virginia pine

Platanus acerifolia	London planetree
Quercus acutissima	Sawtooth oak
Quercus alba	White oak
Quercus bicolor	Swamp white oak
Quercus coccinea	Scarlet oak
Quercus falcata	Southern red oak
Quercus laurifolia	Laurel oak
Quercus nigra	Water oak
Quercus phellos	Willow oak
Quercus borealis	Northern red oak
Quercus shumardi	Shumard oak
Quercus velutina	Black oak
Quercus virginiana	Live oak
Sophora japonica regent	Japanese pagoda tree
Taxodium distichum	Bald cypress
Ulmus parvifolia	Lacebark elm
Ulmus alata	Winged elm
Zelkova serrata	Japanese zelkova

Ornamental Trees

<u>Botanical Name</u>	<u>Common Name</u>
Acer buergeranum	Trident maple
Acer campestre	Hedge maple
Acer palmatum	Japanese maple
Carpinus betulus	European hornbeam
Carpinus caroliniana	American hornbeam
Cercis canadensis	Eastern redbud
Cornus florida	Flowering dogwood
Cornus kousa	Kousa dogwood
Crataegus phaenopyrum	Washington hawthorne
Eleganus angustifolia	Russian olive
Halesia carolina	Carolina silverbell
Hammamelis mollis	Chinese witch-hazel
Ilex fosteri	Foster holly
Ilex opaca	American holly
Ilex opaca hume	Hume holly
Ilex x attenuata savannah	Savannah holly
Koelreutaria paniculata	Golden rain-tree
Lagerstroemia indica	Crapemyrtle
Magnolia soulangeana	Saucer magnolia
Magnolia stellata	Star magnolia
Malus hybrids	Flowering crabapple
Ostrya virginiana	Ironwood
Oxydendrum arboreum	Sourwood
Prunus cerasifera pissardii	Purpleleaf plum
Prunus serrulata kwanzan	Kwanzan cherry
Prunus subhirtella pendula	Weeping cherry

Prunus yedoensis

Prunus caroliniana

Pyrus calleryana 'Redspire'

Pyrus calleryana 'Capital'

Yoshino cherry

Carolina cherry laurel

Redspire pear (discouraged)

Capital pear (discouraged)

Shrubs

<u>Botanical Name</u>	<u>Common Name</u>
Abelia grandiflora	Glossy abelia
Aucuba japonica	Japanese aucuba
Azalea hybrida	Glenn dale azalea
Azalea indica	Indian azalea
Azalea obtusum Kaempferi	Kaempferi azalea
Bambusa multiplex	Hedge bamboo
Berberis julianae	Wintergreen barberry
Berberis thunbergii	Japanese barberry
Camellia japonica	Camellia
Camellia sasanqua	Sasanqua Camellia
Chaenomeles speciosa	Flowering quince
Cleyera japonica	Cleyera
Euonymus alatus	Winged euonymus
Euonymus japonicus	Evergreen euonymus
Eleagnus pungens	Eleagnus
Forsythia intermedia	Forsythia
Hammamelis virginiana	Witch-hazel
Hydrangea quercifolia	Oakleaf hydrangea
Ilex aquifolium	English holly
Ilex cornuta	Chinese holly
Ilex cornuta burfordi	Burford holly
Ilex cornuta burfordi nana	Dward burford holy
Ilex crenata 'convexa'	Convex japanese holly
Ilex crenata 'hetzi'	Hetzi japanese holly
Ilex crenata 'rotundifolis'	Roundleaf japanese holly
Ilex "Emily Brunner"	Emily brunner holly
Ilex glabra	Inkberry holly
Ilex latifolia	Lusterleaf holly
Ilex pernyi	Perny holly
Ilex vomitoria	Yaupon holly
Juniperus chinensis pfitzeriana	Pfitzer juniper
Juniperus chinesis hetzi	Hetzi juniper
Laurus nobilis	Laurel
Ligustrum japonicum	Japanese privet
Ligustrum lucidum	Glossy privet
Ligustrum vicaryi	Vicary golden privet
Loropetalum chinense	Lotopetalum
Mahonia bealei	Leatherleaf mahonia
Myrica cerifera	Wax myrtle
Nandina domestica	Nandina
Osmanthus fortunei	Fortune tea olive
Osmanthus fragrans	Fragrant tea olive
Osmanthus heterophyllus	Holly osmanthus
Osmanthus heterophyllus rotundifolius	Curly leaf tea olive
Pieris floribunda	Mountain andromeda

Pieris japonica	Japanese andromeda
Pittosporum tobira	Pittosporum (discouraged)
Prunus laurocerasus	English laurel
Prunus laurocerasus "Zabel"	"Zabel" Skip laurel
Podocarpus macrophyllus maki	Podocarpus (discouraged)
Prunus laurocerasus angustifolia	Narrow leafed english laurel
Pyracantha coccinea	Scarlet firethorn
Raphiolepis umbellata	Yeddo-hawthorn
Raphiolepis indica	India hawthorn
Spiraea cantoniensis	Reves spirea
Spiraea thunbergi	Thunberg spirea
Spiraea prunifolia plena	Bridalwreath spirea
Spiraea vanhouttei	Vanhoutte spirea
Taxus cuspidata	Japanese yew
Viburnum rhytidophyllum	Leatherleaf viburnum
Viburnum tinus	Laurestinus viburnum

11.9 TREE PRESERVATION

11.9.1. PURPOSE

The purpose of this section is to establish a series of standards and measures necessary to preserve tree canopy cover and significant trees, which provide aesthetic and environmental benefits, as part of the development process. Requirements for tree save areas are designed to enhance and preserve the City's tree canopy and wooded sites and improve the overall quality of life.

11.9.2. APPLICABILITY

- A. The standards in this section shall apply to:
 - 1. All new residential subdivisions containing thirty (30) dwelling units or more in one or more phases of contiguous development
 - 2. Existing residential subdivisions containing thirty (30) dwelling units or more that are expanded by an amount equal to or greater than five (5) percent of the existing site area shall be required to comply with this section only for the expansion area.
- B. Single-family detached dwellings on individual lots of record are exempt from the provisions of this section.

11.9.3. MODIFICATIONS

- A. Where necessary to accommodate creativity in site design or where topographic or physical site conditions make strict adherence impractical, the Administrator reserves the right to review unique situations on a case by case basis and to make necessary modifications provided they meet the performance goals as set forth in this section, Section 9.10.8 Tree Protection Guidelines, Section 10.5 Open Space Standards, and Article 11 Landscape and Buffering Standards. The Administrator shall also have the authority to modify certain standards in this section in either of the following instances:
 - 1. Topographic or physical site conditions make adherence to these standards wholly impractical.
 - 2. Due to existing unusual or unique site characteristics, adhering to these standards would create an undue or unreasonable hardship.
- A. A written request shall be submitted to the City along with any necessary site plans to demonstrate the hardship. The findings of the Administrator shall be final and binding to all parties. Appeals of the Administrator's decisions may be made to the Board of Adjustment.
- B. The provisions of this ordinance may be modified during a period of emergency (such as a major storm, hurricane, tornado, other severe natural disaster, medical emergency, etc.) if compliance would impede the preservation of health and safety, rescue of life, protection of property from immediate danger, or the repair of utilities. Any emergency work shall follow as closely as possible the standards outline herein.

This provision shall not be interpreted to be a general waiver of the intent of this chapter.

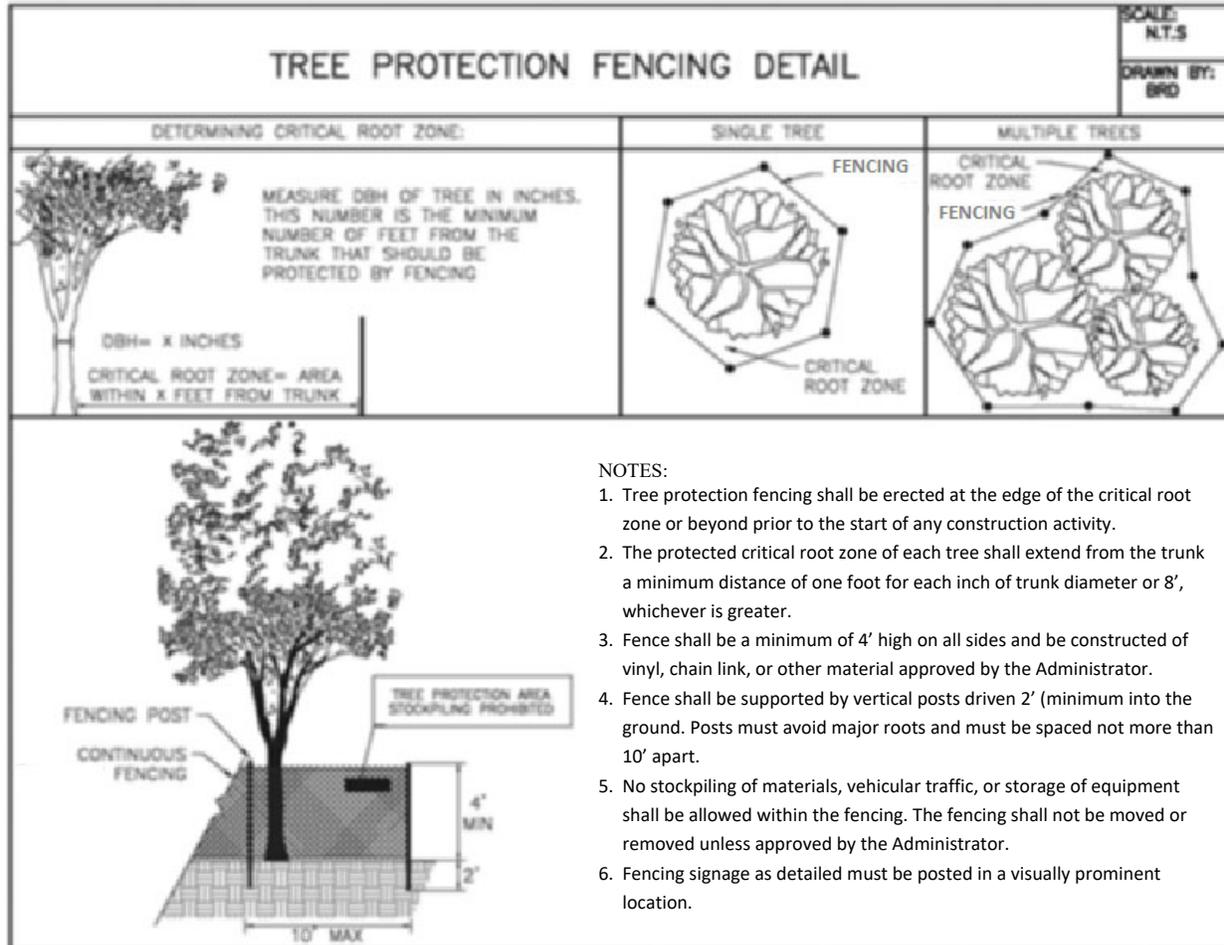
11.9.4. TREE PRESERVATION REQUIREMENTS

To protect the existing tree canopy of wooded areas and to enhance the tree canopy of areas of diminished canopy, the following tree preservation and tree planting provisions are required:

- A. An informal site assessment of existing tree canopies using aerial photography, aerial drones, or other methods approved by the Administrator prior to site preparation or development/redevelopment activities. The site assessment shall also include an inventory of significant trees on the site. No tree removal or land clearing shall be permitted on a site prior to the tree canopy assessment unless approved through the modification process or early grading has been approved through the Site Plan review process.
- B. For residential subdivisions, at least fifty (50) percent of the required open space as set forth in Table 10.5-1 shall be comprised of tree canopies identified during the informal site assessment that are contiguous to the extent possible, with priority given to canopied areas that include significant trees, and designated as a tree save area. Tree save areas shall count towards passive open space and shall be provided in a manner consistent with provisions in Section 10.5.
- C. Trees may be excluded from preservation requirements in the event that they that are dead, diseased or unsafe as determined by the Administrator, or at the general discretion of the Administrator.
- D. If the tree save area does not meet the minimum required percentage of open space from canopies identified during the site assessment, then additional trees must be planted at a spacing of thirty-five (35) feet by thirty-five (35) feet and in compliance with materials and installation provisions in Article VII of the City’s Technical Standards Manual and additional installation provisions of this section.
- E. Results from the initial site assessment for tree canopies and significant trees, identified tree save areas, and identified areas where trees, vegetation, and soils may be removed or modified shall be submitted as part of the landscape plan requirements in Section 11.2.1. The approval of this plan shall require an enforceable restriction on property usage that runs with the land to ensure that future activities maintain the tree save area consistent with the approved project plans.
- F. Tree save areas shall not be disturbed, cut, damaged, or removed, except for in instances described in Section 11.9.3.
- G. Protective barricades shall be placed around the tree save areas at least one (1) foot of radial distance from trunks of perimeter trees for every inch of tree DBH of the perimeter trees or at least eight (8) feet radial distance from trunks of perimeter trees, whichever is greater, prior to the start of development activities or grading.

Refer to (Figure 11.9-1) for tree protection fencing specifications. The protective barricades shall be identified on the landscape plan as per Section 11.2.1.

Figure 11.9-1: Tree Protection Fencing Detail (Source: City of Concord)



- H. To prevent unintended compaction of soil, the area within the protective barricade shall remain free of all building materials, dirt or other construction debris, construction traffic, storage of vehicles and materials, and mass grading.
- I. Except for driveway access points, sidewalks curb and gutter, no paving with concrete or other impervious materials within five (5) feet of protective barricades are allowed unless otherwise approved by the Administrator.

11.9.5. INSPECTIONS

The City Arborist, landscape architect or other qualified persons designated by the City are authorized to inspect the tree save areas. These designees are authorized to:

- A. Inspect the tree save areas at any time during construction.

- B. Inspect the tree save areas once a year after the issuance of a Certificate of Occupancy in order to ensure compliance with the approved site plan and to ensure that the tree save areas are properly maintained.
- C. The Administrator may issue a Notice of Violation for developments found to be in violation to comply with the provisions of this section.

11.9.6. TREE REPLACEMENT

- A. The following replanting requirements apply to those who commit a violation of these provisions resulting in the removal, damage, or death of trees in a tree save area. Trees removed in the tree save area due to emergencies, as specified in Section 11.9.3(C), and death by natural causes are excluded from these requirements.
 - 1. If tree save area affected by the violation is less than one (1) acre and tree stumps are present, replace at a one-to-one (1:1) ratio each removed, damaged, or dead tree with a tree of the same species.
 - 2. If tree save area affected by the violation is less than one (1) acre and tree stumps are not present, replant trees in the affected area based on the requirements specified in Section 11.9.4.(D).
 - 3. If tree save area affected by the violation is one (1) acre or more, replant trees in the affected area based on the requirements specified in Section 11.9.4.(D).
- B. Trees planted within the tree save area during site development/redevelopment activity and that die within one (1) year of construction completion shall be removed and replaced by the applicant.
- C. A plan denoting the proposed location and species of replacements shall be submitted to the Administrator for approval.

ARTICLE 12

SIGN STANDARDS

12.1. GENERAL PROVISIONS.

12.1.1. PURPOSE.

This sign ordinance is adopted under the zoning authority of the City in furtherance of the more general purposes set forth in this Ordinance.

The purpose of these sign regulations are:

- A. To encourage the effective use of signs as a means of communication in the City while preserving the rights of free speech under the First Amendment to the United States Constitution;
- B. To maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
- C. To improve pedestrian and traffic safety;
- D. To minimize the possible adverse effect of signs on nearby public and private property; and
- E. To enable the fair and consistent enforcement of these sign restrictions.

12.1.2. APPLICABILITY.

A sign may be constructed, erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance. The effect of this Ordinance as more specifically set forth herein is:

- A. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;
- B. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, but without a requirement for permits;
- C. To prohibit all signs not expressly permitted by this Ordinance; and
- D. To provide for the enforcement of the provisions of this Ordinance.

12.1.3. ALTERATION OF CONFORMING SIGNS

The replacement of sign faces, lettering or other features of a sign which conforms in every manner to the provisions of this Article shall be considered maintenance and shall not require a permit. No alteration which modifies the area, height or illumination of a sign, or alters its locations shall be permitted under this provision.

12.1.4. SIGNS ON PUBLIC PROPERTY FORFEITED.

Any sign installed or placed on public property or within a public right-of-way, except in conformance with the requirements of this Article, shall be forfeited to the public and is subject to confiscation. In addition to other remedies hereunder, the Administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

12.1.5. SIGN PERMITTING AND REGISTRATION

To ensure compliance with the provisions of this Article, all persons proposing to display a sign shall obtain a sign permit, in accordance with the general procedure established for the issuance of permits in this Ordinance, or register such sign in accordance with the City’s temporary sign registration program, as applicable, unless otherwise expressly exempted from such requirement. When a permit or registration is required, a permit shall be issued or the sign shall be registered prior to the installation or placement of such sign.

A. Permanent Signs Requiring a Permit:

The types of permanent signs listed below shall be required to receive a permit:

1. Wall Signs (12.4.2)
2. Awning Signs (12.4.3)
3. Freestanding Ground Signs (12.4.4)
4. Projecting Signs (12.4.5)
5. Canopy Signs (12.4.6)
6. Incidental Signs (12.4.7 (A) through (E))
7. Permanent Flag displays (12.4.8 - except residential uses)

B. Signage Plan Required

For any lot on which the owner proposes to erect one or more signs requiring a permit or for a combined development or other multi-tenant development, a signage plan shall be required, which includes the following information:

1. An accurate Plot Plan of the lot or parcel, at such scale as the Administrator may reasonably require;
2. Location of buildings, parking lots, driveways, and landscaped areas on such lot or parcel;
3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of signs of each type allowed on the lot(s) or parcel(s) included in the plan under this Ordinance; and
4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.

5. Permanent signs for planned unit developments, Traditional Neighborhood Developments and conditional uses shall be reviewed as part of the site plan.

C. Temporary Sign Registration.

The display of certain temporary signs, including the recurring placement of certain signs where permitted, shall require the registration of such temporary sign prior to its display.

1. Temporary Signs Requiring Registration.

- a. Type 2 Freestanding Temporary Signs (12.3.3.C)
- b. Type 3 Freestanding Temporary Signs (12.3.3.D)
- c. Type 4 Freestanding Temporary Signs (12.3.3.E)
- d. Wall Mounted Temporary Signs (12.3.4)

2. Registration Procedure and Standards

- a. The Planning and Neighborhood Development Department shall maintain a system for the submission of temporary sign registrations, and shall respond to all registration submissions within 48 hours of their submission, excluding weekends and holidays observed by the City of Concord.
- b. Persons submitting a temporary sign for registration shall provide sufficient information, including the physical characteristics, display location and proposed period of display (if applicable), in order to determine its compliance with the applicable regulations.
- c. Only those signs which meet all of the requirements established by Section 12.3 for the particular type of sign may be registered. Signs not meeting those regulations will be denied registration. In the case of denial of registration, the person registering the temporary sign shall be notified of the specific reason for the denial of registration.
- d. Failure to register a temporary sign that is required to be registered prior to displaying it is a violation of this Ordinance.

12.1.6. SIGN AREA COMPUTATIONS.

The following principles shall control the computation of sign area and sign height:

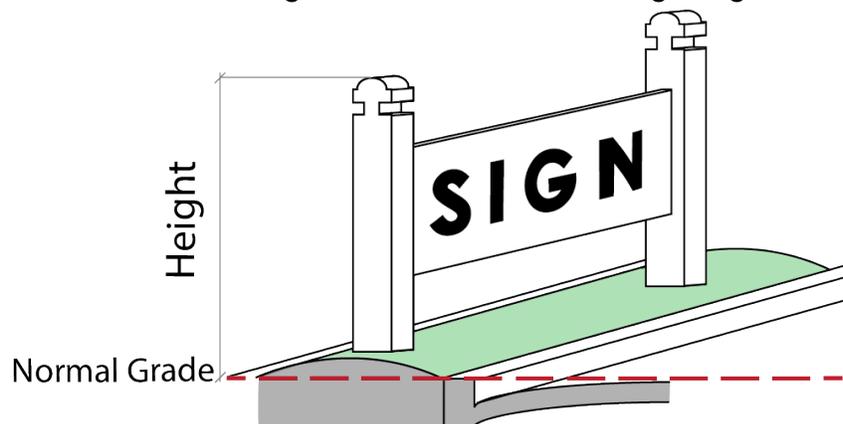
- A. **Computation of Area of Single-faced Signs.** The area of a sign face shall be computed by means of the smallest square or rectangle, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

Figure 12-1: Measurement of a Sign Face



- B. Computation of Area of Multi-faced Signs.** The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- C. Computation of Height.** The height of a freestanding sign shall be computed as the vertical distance from the point of the sign that is level with the highest paved portion of the street right-of-way or recorded access easement to the top of the highest attached component of the sign. The highest paved portion of the street right-of-way or recorded access easement shall be measured along the frontage of the property where the sign will be located at the point nearest the sign location. It will be the responsibility of the applicant to provide a document prepared by a licensed North Carolina surveyor demonstrating the grade from which the height of the sign will be measured. The design, colors and/or materials of the base or supports of any sign that is below the paved portion of the street right-of-way or recorded access easement shall be consistent with, or complimentary to, the portions of the sign above that point.

Figure 12-2: Measurement of Sign Height



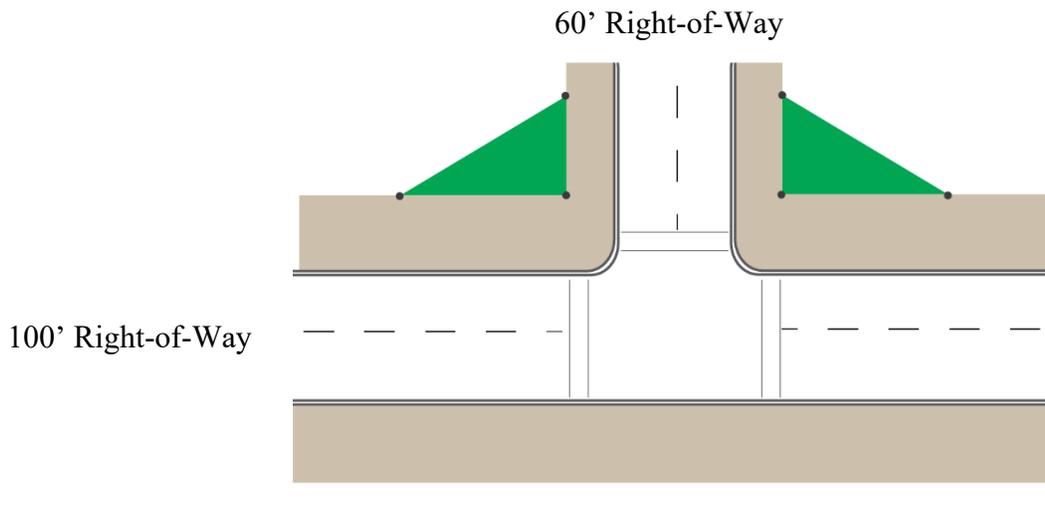
12.1.7. CLEAR SIGHT DISTANCE REQUIRED.

Clear sight distance at street intersections is required. Signs shall be located outside of the required sight triangle as detailed in Table 12.1-1 and Figure 12-3. Site triangles are required in every zoning district except for the CC District. Sight triangles must be shown on all submitted plans depicting the location of signage for sign permit applications.

Table 12.1-1: Sight Triangle Leg Length along a Right-of-Way Measured from the Point of Intersection

Right-of-Way Width (feet)	Length (feet)
50	25
60	30
70	35
80	40
90	45
≥100	50

Figure 12-3: Sight Triangle Sample Illustration



12.1.8. DESIGN, CONSTRUCTION, AND MAINTENANCE.

All signs shall be designed, constructed, and maintained, in accordance with the following standards:

- A. All signs shall be constructed and maintained to retain sound structural condition, and free of deterioration including but not limited to broken panels, peeling paint, fading, shredding, ripping, dirt and grime that cannot be cleaned, and damaged poles or torn grommets that cannot be repaired. All signs shall comply with all applicable provisions of the State Building Code, all applicable electrical codes, and this Ordinance, at all times. All electric power sources shall be hard wired.
- B. Except for flags, certain temporary signs, and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of rigid all weather materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure. All ground signs shall be monument style.

12.1.9. CERTAIN GOVERNMENT SIGNS EXEMPT.

Official signs installed by units of local government having jurisdiction within the City of Concord, agencies of the State of North Carolina and federal government agencies are exempt from the regulations established by this Ordinance, provided that such signs are installed upon public property or within a right-of-way owned or maintained by said governmental agency and fully conform to all safety provisions established by this Ordinance. For the purposes of this section, official signs shall include any sign erected by the City of Concord.

12.1.10. COMPREHENSIVE SIGN PACKAGES

As an alternative to the standards established by this Article, developments consisting of buildings which contain 250,000 square feet or more of gross floor area or occupy a total area of 10 acres or more, may submit an application for a comprehensive sign package which details alternative regulations for the installation and display of signs within the development. Comprehensive sign packages shall be approved as an included condition when a petition for a conditional district zoning is submitted for qualifying projects. In all other cases, a comprehensive sign package shall be approved by the issuance of a Special Use Permit. Comprehensive sign packages may only be modified in the same manner in which they were originally approved. Comprehensive sign packages shall provide detailed regulations for the following, at a minimum:

- A. Permitted sign types
- B. Permitted sign area and height for each proposed sign
- C. Permitted sign materials for each type of sign
- D. Permitted types of illumination for each sign type
- E. The location of all proposed signs, including permitted mounting locations for building mounted signs.

- F. The type, display location, materials, size and height for any temporary signs permitted to be displayed.

The goal of the comprehensive sign package is to create an integrated typology for the permitted signs on the property subject to the approved comprehensive sign package. To that end, the proposed package shall require the use of signage with common characteristics both within individual sign types and across the various types of signs.

12.1.11. COMMON SIGNAGE PLANS REQUIRED

Where multiple building mounted signs of the same type (including wall, projecting and awning signs) are proposed for display on a building or group of buildings situated upon the same property or within a common development, such as a shopping center, the owner or developer shall submit a common signage plan that details a uniform approach to the permitted sign material(s), type of illumination and style of signage. Following the submission of the common signage plan, all signs installed within the area covered by the plan shall conform to the submitted plan. Common signage plans may only be altered following their submission if the original applicant or their successor agrees to modify all affected signage within the area covered by the plan to meet the new standard.

12.1.12. NONCONFORMING SIGNS.

In the interest of encouraging the eventual removal of signs that do not meet the current standards of the ordinance, the following standards are established to require the removal of nonconforming signs under certain circumstances. These provisions shall apply only to permanent signs which were lawfully established prior to November 10, 21016. Signs which were not lawfully established, or, which are prohibited in Section 12.2.1, shall be subject to immediate discontinuance and removal.

A. Discontinuance of Occupancy and/or Use

Where one or more nonconforming signs are located on a parcel of land or building whose occupancy or use has been discontinued, such nonconforming sign(s) shall be removed, replaced or otherwise brought into conformance with the current standards of this Ordinance.

B. Change of Use

Whenever an application for a zoning permit is submitted for the change of use of a property, a permit may be issued only upon the condition that all nonconforming signs on the property be removed or otherwise brought into compliance with the standards of this ordinance prior to the establishment of the new use.

C. Alteration of Nonconforming Signs

Nonconforming signs shall not be altered in any manner unless the alteration brings the sign into full compliance with the standards of this ordinance. Prohibited alterations include the replacement of sign faces or panels, except that multi-tenant signs with changeable panels may remain in use regardless of changes in the individual tenants, but must be made conforming upon a change

in the ownership of the property. Also, maintenance of a non-conforming sign is not considered to be an alteration.

D. Removal or Damage

Nonconforming signs that are voluntarily removed, or which are damaged to an extent greater than or equal to 50% of their replacement value shall not be reestablished or repaired except in full conformance with the current standards of this Ordinance.

E. Exceptions

Signs that were permitted in accordance with the standards of an overlay district, PID, or other conditional district shall be exempt from the requirements of this section.

12.2. PROHIBITED SIGNS.

12.2.1. APPLICABILITY.

The following signs are expressly prohibited within the City of Concord and its extraterritorial jurisdiction:

- A. Signs which approximate official highway signs, warning signs or regulatory devices.
- B. Electronic Message Boards / Dynamic Signs / Electronic Time and Temperature Displays - displaying blinking, flashing or intermittent lights, animation, and moving parts, unless otherwise expressly permitted.
- C. Portable signs as defined by this Ordinance.
- D. "Wrap-around" signs or other continuous wall signs that extend around building corners or radii.
- E. Facsimile signs, as defined by this Ordinance
- F. Vertically displayed banner signs or flags mounted or attached to poles, where the height of the banner or flag exceeds twenty-five percent (25%) of the height of the pole when erected in its display position. This provision shall be effective July 1, 2017.
- G. Signs placed within any required sight triangle.
- H. Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other signs, benches and refuse containers.
- I. Roof signs.
- J. Pavement markings for purposes other than traffic control.
- K. Signs placed within or extending into the right-of-way of city and state maintained streets and roads, except those signs erected by a duly constituted government body or which are expressly permitted to be placed within a right-of-way by this Ordinance or the North Carolina General Statutes.
- L. Signs that contain language and/or pictures obscene to the general public in accordance with NCGS 14-190.1.
- M. Indirect illumination for signs, such as floodlights, erected in such a manner as to cause glare that impairs driver vision on streets or roadways, pilot vision approaching or departing Concord Regional Airport runways, or that causes a nuisance to adjoining property.
- N. Signs that obstruct fire escapes, windows, doors or other openings used

as means of egress or as required legal ventilation.

- O. Signs containing or consisting of pennants, ribbons, streamers, festoon lighting, balloons (or inflatable signs), spinners or windblown devices.
- P. Signs that do not conform to the provisions of these regulations, except as otherwise provided in this Article.

12.3. TEMPORARY SIGNS.

12.3.1. APPLICABILITY.

The provisions of this section shall apply to the placement and display of temporary signage within the City's jurisdiction. Any temporary sign that does not comply with the provisions of this Section is prohibited. Any sign which is permanently displayed shall comply with the provisions of Section 12.4, Permanent Signs.

12.3.2. COMMON STANDARDS.

All temporary signs shall comply with the following common standards:

- A. Temporary signs shall not be illuminated or be provided with any electric service.
- B. Temporary signs shall not be placed within any public street right-of-way, including within medians, unless expressly permitted by this ordinance or the North Carolina General Statutes.
- C. Temporary signs attached to building walls (other than permitted temporary window signs) shall not be placed in a manner that obstructs any window, door, fire department sprinkler connection, or street number sign.
- D. Temporary signs shall not be affixed to a permanent sign or its supporting structure, including both building mounted and freestanding permanent signs.
- E. Temporary signs shall not be placed in a manner that obstructs clear site distance (within the required sight triangle) for motorists at street intersections or driveways.
- F. Temporary signs, other than Type 4 Freestanding Temporary Signs, shall not be placed upon any sidewalk or other pedestrian walkway.
- G. Temporary signs shall not be placed on the roof of a building, or affixed to a tree, utility pole, street sign or a parked motor vehicle, unless such vehicle is registered and parked in an established parking space.
- H. Where temporary signs are limited in the duration of their display and limited in the total number of displays per calendar year, any required period of separation between such displays shall carry through to the following calendar year, and shall be observed prior to initiating the first allowed display during the new calendar year.

12.3.3. FREESTANDING TEMPORARY SIGNS.

A. General Provisions

The following standards shall apply to all Freestanding Temporary Signs:

1. Signs shall not be affixed to poles, posts, stakes or other supporting

structures that are permanently installed or anchored into the ground through the use of concrete foundations or similar anchoring techniques.

2. Signs, other than Type 4 Freestanding Temporary signs, shall not encroach into the right of way of any public or private street.
3. No more than one (1) Freestanding Temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy at any given time, regardless of type, unless otherwise expressly permitted.

B. Type 1 Freestanding Temporary Signs

Signs in this category consist of small, temporary yard signs that are typically associated with (but not limited to) the advertisement of real estate, political campaigns and meeting announcements. For examples of Type 1 Temporary Freestanding Signs, see Figure 12-4.

1. Where Permitted

Type 1 Freestanding Temporary signs may be displayed in any district and may be associated with any use, including parcels containing only vacant or undeveloped land.

2. Permitted Size

The maximum sign display area is limited to six (6) square feet (per side if dual sided).

3. Permitted Height

The maximum height of the sign, including any supporting posts or stakes, is limited to four (4) feet above the adjacent grade.

4. Number Permitted

One (1) Type 1 Freestanding Temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy.

5. Sign Material

The display area (sign face) shall be composed of a rigid material.

6. Mounting Standard

Signs may only be mounted and supported by posts or stakes.

7. Permitted Duration of Display

There is no limit to the duration of the display of a Type 1 sign.

C. Type 2 Freestanding Temporary Signs

Signs in this category are typically referred to as “banners” that are typically associated with (but not limited to) the announcement of community, sporting and similar special events. For examples of Type 2

Temporary Freestanding Signs, see Figure 12-4.

1. Where Permitted

Type 2 signs are permitted only on parcels or groups of adjacent parcels under common ownership which contain either:

- a. A multi-family use with twenty-four (24) or more dwelling units;
- b. A use in the Group Living use group;
- c. A use in the Public and Civic use category; or
- d. A use in the Outdoor Recreation use group.

Type 2 signs may also be displayed, subject to the limitations herein, on any parcel of land owned by a non-profit corporation organized under Section 501(c)(3) of the Internal Revenue Code.

2. Permitted Size

The maximum sign display area is limited to eighteen (18) square feet (per side if dual sided).

3. Permitted Height

The maximum height of the sign, including any supporting posts or stakes, is limited to four (4) feet above the adjacent grade.

4. Number Permitted

One (1) Type 2 Freestanding Temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy.

5. Sign Material Standard

The display area (sign face) shall be composed of flexible material.

6. Mounting Standard

Signs may only be mounted and supported by posts or stakes.

7. Number of Sides

The display area may be either single or dual sided, but shall not consist of more than one (1) distinct component.

8. Permitted Duration of Display

Type 2 signs are permitted to be displayed for a maximum period of fourteen (14) calendar days. A maximum of six (6) separate displays are permitted during each calendar year with a minimum of ten (10) days of separation between displays.

D. Type 3 Freestanding Temporary Signs

Signs in this category are large temporary signs typically associated with (but not limited to) the advertisement of large tracts of land for sale,

construction and development activity or the advertisement of commercial or industrial buildings for sale or lease. For examples of Type 3 Temporary Freestanding Signs, see Figure 12-4.

1. Where Permitted

Type 3 signs are permitted only on parcels which contain either:

- a. A use in the Household Living use group where the size of the parcel or group of adjacent parcels under common ownership is a minimum of (3) acres in size;
- b. Unoccupied space or undeveloped land. However, only one (1) Type 3 sign shall be allowed per combined development.
- c. A use in any other category or use group, provided that the parcel upon which the sign is displayed has a minimum of 100 feet of frontage on a public street, as measured at the right-of-way.

2. Simultaneous Display Prohibited

A Type 3 sign shall not be displayed upon a parcel that contains a permanent freestanding sign, including a sign structure that has had its display area removed, unless the parcel includes unoccupied space or undeveloped land.

3. Permitted Size

The maximum display area is limited to sixteen (16) square feet (per side if dual sided).

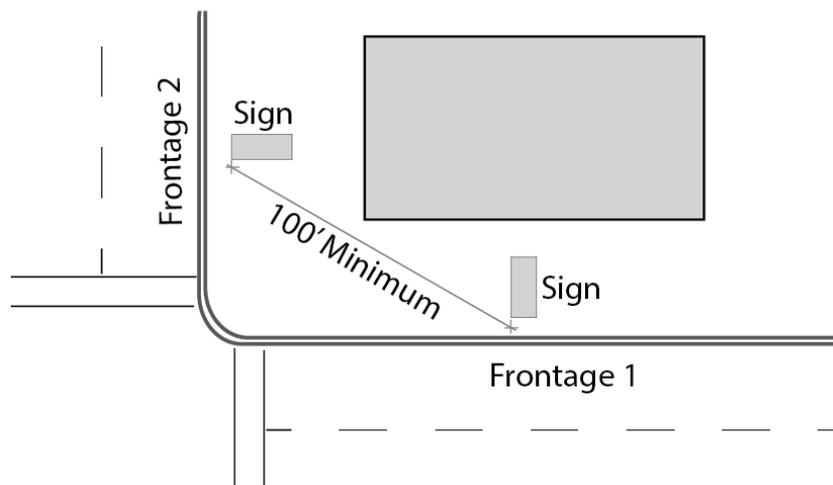
4. Permitted Height

The maximum height of the sign, including any supporting posts or stakes, is limited to eight (8) feet above the adjacent grade.

5. Number Permitted

Up to two (2) Type 3 Freestanding Temporary Signs may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy with a minimum separation of 400 linear feet. If a parcel or group of adjacent parcels under common ownership or tenancy is located at an intersection with multiple frontages, then one (1) Type 3 sign may be displayed per road frontage with a minimum separation of 100 feet as measured in a straight line. (See Figure 12-3).

Figure 12-3: Minimum Separation for Type 3 Signs on Separate Frontages

**6. Sign Material**

The display area (sign face) shall be composed of a rigid material.

7. Mounting Standard

Signs shall be mounted to and supported by a minimum of two separate posts or stakes.

8. Number of Sides

The display area may be either single or dual sided, but shall not consist of more than one (1) distinct component.

9. Permitted Duration of Display

- a. Type 3 signs may be displayed without limit to duration upon any parcel or group of adjacent parcels under common ownership which contain only vacant or undeveloped land, including land whose principal use is the production of agricultural commodities or silviculture (forestry).
- b. In all other cases, the duration of display shall be limited to two (2) years, provided that this limit shall not be apply if the land, and any building(s) and/or structure(s) upon such parcel or group of parcels is not occupied or in active use for purposes other than a use in the Household Living use group at any time during the period of display.

- c. Where the display of a Type 3 sign is subject to a limit on the duration of display, there shall be a minimum period of separation of sixty (60) days between the removal of the previously permitted sign and the display of a new sign. Such period of separation shall apply in all cases where a sign subject to a limit on the duration of its display is removed, regardless of whether the maximum allowed duration for its display has been reached at the time of its removal.

E. Type 4 Freestanding Temporary Signs

The category of signs defined as Type 4 Freestanding Temporary signs shall include only those signs which are constructed in a manner so that the sign shall be self-supporting when placed in its display position. Examples of Type 4 signs include those that are commonly referred to as “A-frame”, “sandwich board”, or “fillable base” signs.

1. Where Permitted

Type 4 signs may only be displayed by a use that is included in the Commercial use category.

2. Permitted Size

The maximum sign display area is limited to six (6) square feet per sign face.

3. Permitted Height

The maximum height of the sign is limited to four (4) feet above the grade of the surface upon which it is displayed when placed in its display position.

4. Number Permitted

One (1) Type 4 Freestanding Temporary Sign may be displayed per customer entrance, provided that no more than two (2) Type 4 signs may be displayed per tenant space along the same building frontage.

5. Sign Material Standard

The display areas (sign faces) shall be composed of rigid material.

6. Placement Standards

- a. A Type 4 sign may only be placed within an area bounded by an imaginary line running ten (10) feet along the building wall from the outer edges of the customer entrance, extending ten (10) feet perpendicular to the building wall and thence connecting at the center point of the customer entrance ten (10) feet from the building wall.
- b. Type 4 signs may be placed upon a public sidewalk or other pedestrian walkway, provided that a minimum of four (4)

feet of unobstructed clearance is maintained along the directional path of the walkway. Within the Center City zoning district, signs shall be placed in a manner so that the edge of the sign is flush with the wall of the building housing the use associated with the sign, provided that a four (4) foot unobstructed path along the sidewalk shall be maintained in all cases.

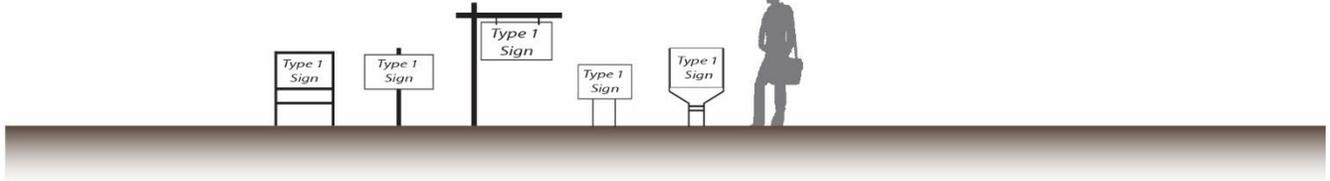
- c. Type 4 signs associated with an individual tenant space shall be separated by a minimum of 50 feet.
- d. In no case shall a Type 4 sign be placed within a landscaped area, or within a vehicular use area, including parking areas, loading areas and driveways.

7. Permitted Duration of Display

Type 4 signs may only be displayed during the period beginning 30 minutes prior to the daily opening and ending 30 minutes following the daily closing of the business displaying the sign.

Figure 12-4: Temporary Freestanding Sign Examples

Type 1 Sign Examples



Type 2 Sign Examples



Type 3 Sign Examples



Type 4 Sign Example



12.3.4. WALL MOUNTED TEMPORARY SIGNS.

Temporary signs mounted to building walls may be displayed subject to the following provisions:

- A. Wall mounted temporary signs are permitted to be displayed on buildings housing a principal use within the Public and Civic, Commercial or Industrial use categories, as well as any building housing a use which is a non-profit corporation organized under Section 501(c)(3) of the Internal Revenue Code.
- B. One (1) temporary wall sign may be displayed per building occupied by a single tenant. Buildings designed for occupancy by multiple tenants where each tenant has a separate entrance may display one (1) temporary wall sign per tenant space. Buildings occupied by multiple tenants that share a common entrance may not display more than one (1) temporary wall sign at any given time.
- C. Temporary wall signs shall be mounted flush against the building wall and secured by fasteners or other anchors at each corner.
- D. The maximum display area for temporary wall signs shall be the greater of eighteen (18) square feet or twenty-five percent (25%) of the maximum permitted permanent wall signage, not to exceed 72 square feet.
- E. Temporary wall signs may be displayed for a maximum of thirty (30) consecutive calendar days.
- F. Temporary wall signs may be displayed a maximum of four (4) times per calendar year, with a minimum of thirty (30) days of separation between removing a temporary wall sign and displaying a new temporary wall sign. The minimum time period between temporary sign displays for buildings housing multiple uses that share a common entrance is ten (10) days.
- G. Beginning on the date that a certificate of occupancy for a newly constructed building or zoning permit for a bona fide change of use is issued and ending 60 calendar days following the issuance of said certificate or permit, a temporary wall sign in compliance with the remaining standards of this section may be displayed for the duration of the 60 day period. The display of a temporary wall sign subject to this provision shall be counted as one of the four (4) permitted displays for the calendar year in which the sign is removed. The required thirty (30) day separation period shall begin upon the removal of such sign.

12.3.5. TEMPORARY WINDOW SIGNAGE.

The display of temporary window signs shall be regulated by the general window signage standard established in Section 12.4.7(B)

12.3.6. SPECIAL EVENT SIGNAGE**A. Intent.**

The intent of this regulation is to provide for the periodic increase in the

number of temporary signs that may be displayed during large scale events held in the City of Concord in order to promote economic activity and support the promotion of such events.

B. Qualifying Events.

The rules associated with this regulation shall only be effective with respect to events that are held annually within the City of Concord and which attracted at least 30,000 attendees / spectators during a single day of the event during the preceding year.

C. Period of Applicability

The provisions of this regulation shall be effective beginning 10 days prior to the date of the event (or beginning date of a multi-day event) and shall end 24 hours following the conclusion of the event. These provisions shall also be effective annually beginning on May 1st and ending May 31st.

D. Additional Temporary Signs Permitted

An unlimited number of temporary signs and/or strings of pennants may be displayed upon any property which is both zoned and used for commercial purposes during each period of applicability. All signs in excess of the number of permitted temporary signs allowed during other times shall be removed by the end of the period of applicability.

E. Other Regulations Remain in Effect

During the period of applicability, all other generally applicable sign regulations and regulations specifically applicable to temporary signs shall remain in effect, including the prohibition of the placement of signs within the right-of-way of public streets, and regulations related to the maintenance of clear sight distance for motorists and pedestrians.

12.3.7. TEMPORARY USE SIGNAGE

The issuance of a Temporary Use Permit allows the display of one (1) Freestanding Temporary Sign (Type 1, 2 or 4) at the permitted location of the Temporary Use for the period of operation as specified in the Temporary Use Permit.

12.3.8. SUPPLEMENTAL LAND DEVELOPMENT SIGNAGE

Beginning upon the date of land development or construction activity authorized by a valid zoning permit, site plan, or subdivision plat approval and ending on the date that a certificate of compliance, certificate of occupancy, or final plat approval is granted, two (2) additional Type 1, 2 or 3 Freestanding Temporary Signs may be displayed upon the site of the permitted activity.

12.3.9. SUSPENSION OF TYPE 1 FREESTANDING SIGN REGULATIONS

Beginning on the 30th day prior to the beginning of early voting for any scheduled primary or election, as established by the North Carolina Board of Elections, and ending the 10th day following the primary or election, the limit on the number of Type 1 Freestanding Temporary Signs that may be displayed on a parcel containing a use in the Household Living use group is suspended. All other regulations associated with such signage shall remain in effect during such period of suspension. Following the end of such period of suspension of

this regulation, the limit on the number of permitted Type 1 Freestanding Temporary Signs shall be in force until the following period of suspension.

12.3.10. BALLOON DISPLAYS IN THE CC DISTRICT

Balloons may be utilized as temporary signage in the CC District subject to the following regulations:

- A. A maximum of two (2) individual bundles of tied balloons may be displayed within 5 feet of a customer entrance.
- B. Each bundle of balloons may contain up to five (5) individual balloons.
- C. Each bundle of balloons may not exceed 36 inches in diameter (width) when grouped together.
- D. Balloons may only be displayed during business hours, and shall be removed promptly upon the close of business.
- E. Balloons shall be securely fastened to a building wall and shall not be placed in a manner that obstructs pedestrian travel along the sidewalk. A minimum clear distance of four (4) feet shall be maintained between a balloon display and any other obstruction.

12.4. PERMANENT SIGNS.

12.4.1. APPLICABILITY.

The following regulations govern the installation and display of permanent signage within the jurisdiction of this Ordinance. All permanently installed signage shall comply with these regulations unless otherwise explicitly exempted by the provisions of this Ordinance.

12.4.2. WALL SIGNS.

A. Where Permitted

Wall signs shall be permitted to be displayed in association with any nonresidential use in any zoning district subject to such additional limitations and conditions as included herein.

B. Permitted Sign Location

Wall signs may be displayed on any building wall that includes a customer or public entrance, faces a parking area that contains 25% or more of the spaces provided for the building or use, or which is located within 100 feet of the right-of-way of a public or private street or internal drive that is fully separated from customer parking areas.

C. Number of Signs Permitted

One (1) wall sign shall be permitted per building wall for single tenant buildings. Buildings containing multiple tenant spaces with individual exterior entrances may display one (1) wall sign per tenant space.

D. Permitted Sign Area

The maximum permitted area of wall signs shall be eight percent (8%) of the area of the building wall (or portion thereof for multi-tenant buildings) to which it is attached unless otherwise specified. The area of the building wall shall be measured along its entire width (or width of the tenant space) from the base of the building wall to the top of the parapet wall or point at which the roof begins, up to a maximum of 30 feet in height. Areas of projection or other change in wall plane along a building wall that are not parallel to the primary (longest) wall plane shall not be included in such calculation.

Figure 12-5: Measurement of Building Wall Area

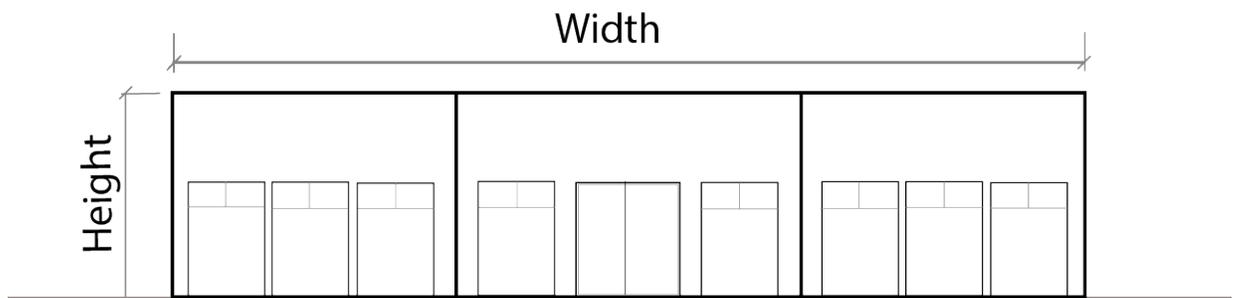
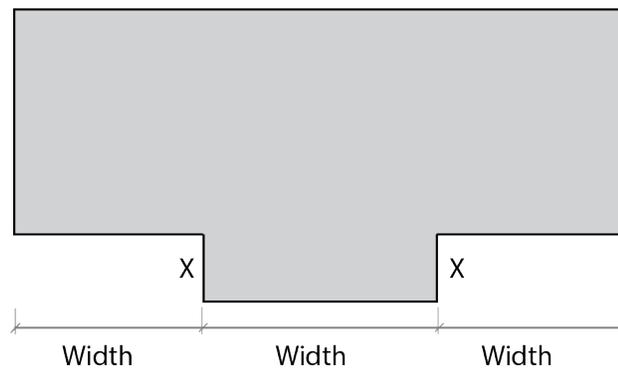


Figure 12-6: Measurement of Building Walls with Projections



E. Additional Wall Signage

Additional wall signage may be displayed subject to the following conditions:

1. Single Tenant Buildings

Two (2) secondary wall signs may be displayed on building walls exceeding 50 feet in length. One (1) additional secondary wall sign is permitted for each additional 50 feet of building wall length, up to a maximum of four (4) total secondary wall signs. The maximum area of each permitted secondary wall sign shall not exceed 50% of the permitted area of the primary wall sign and each sign shall be separated by a minimum of 10 horizontal feet as measured from the closest point of each sign to each other sign displayed on the building wall.

2. Multi-Tenant Buildings

Two (2) secondary wall signs may be displayed on building walls enclosing each separate tenant space provided with an individual entrance which exceed 100 feet in length. One (1) additional secondary wall sign is permitted for each additional 50 feet of tenant building wall length, up to a maximum of four (4) total secondary wall signs per tenant space. The maximum area of each permitted secondary wall sign shall not exceed 50% of the permitted area of the tenant's primary wall sign and each sign shall be separated by a minimum of 10 horizontal feet as measured from the closest point of each sign to each other sign displayed on the building wall.

F. Changeable Copy

Wall signs may not include any changeable copy features, including manually changeable copy, electronic reader boards or similar features. This shall not apply to wall signs displayed on buildings designed for and in use as places of assembly such as churches, theaters, events centers and similar uses.

G. Illumination

Wall signs may be illuminated either internally or externally with the exception zoning districts where single family residences are a use that is permitted by

right, in which case only external illumination of wall signs is permitted.

H. Mounting Requirements

Wall signs may not project more than 12 inches from the building wall to which they are mounted and shall not be mounted in a manner where any part of the sign extends past the top of the building wall.

I. Cabinet Style Wall Signs

Wall signs which are designed as a cabinet or box which projects from the building wall no more than 12 inches are permitted, provided that such signs shall not exceed 24 square feet in area, and provided that signage of this style may not be utilized on a building wall which contains multiple wall signs, including both single tenant and multi-tenant buildings.

J. Wall Signs on Historic Buildings

Wall signs on historic buildings shall be placed within the sign frieze, or distinct place within which a wall sign was intended to be located, if the building was designed for such. If a sign frieze is present, a wall sign placed within the frieze shall be permitted to exceed the maximum permitted sign area. No wall sign shall extend beyond such space. If there is no sign frieze, the wall sign shall be placed below the typical second floor window area. The design and coloration of such signs shall be compatible with the character of the building.

K. Historic Wall Signs

Repair, replacement or replicas of historic signs, including internally illuminated, back-lighted, indirect, exposed bulb, or neon signs, are permitted in the Center City District. A photo, picture, drawing, or sketch of the *original* sign shall accompany the sign application that reasonably establishes a date of establishment of the original historic sign prior to January 1, 1966. A Certificate of Appropriateness is required.

12.4.3. AWNING SIGNS.

A. Where Permitted

Awning signs shall be permitted to be displayed on awnings associated with any nonresidential use in any zoning district subject to such additional limitations and conditions as included herein.

B. Permitted Sign Location

Awning signs may only be displayed on awnings which are installed to cover a customer entrance.

C. Number of Signs Permitted

One (1) sign may be displayed per awning installed to cover a customer entrance.

D. Maximum Valance and Copy size

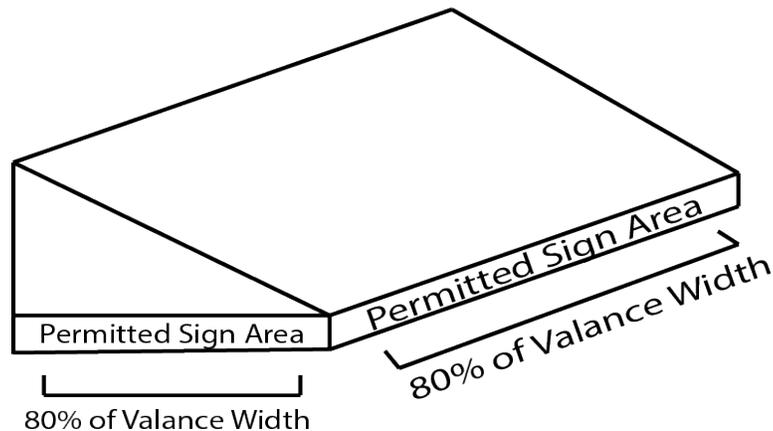
The valance, or apron, for any canopy shall in no case exceed 12 inches in height. Individual letters or symbols displayed on the valance of an awning shall not exceed nine (9) inches in height. This provision shall apply only to

valances to which sign copy is affixed.

E. Permitted Sign Area

Awning signs may be displayed across up to 80% of the width of the valance of an awning.

Figure 12-7: Permitted Sign Area for Awning Signs



F. Illumination

Awning signs shall not be illuminated.

G. Multi-Tenant and Combined Developments

Each tenant space within a multi-tenant building or buildings within a combined development shall utilize either awning signs exclusively in place of wall signage or may combine awning signs with wall signage, provided that each tenant space or building within the development shall utilize the same choice in sign type or combination of sign type.

H. Awning Signs on Historic Buildings

Awning signs shall not be permitted on historic buildings where no evidence exists of their use when the building was originally constructed and occupied.

12.4.4. FREESTANDING GROUND SIGNS

A. Where Permitted

Freestanding ground signs are permitted in association with any principal nonresidential use in any zoning district. Freestanding ground signs may also be established in association with multi-family residential developments containing 16 or more dwelling units and single family residential subdivisions containing 24 or more individual lots.

B. Permitted Sign Location

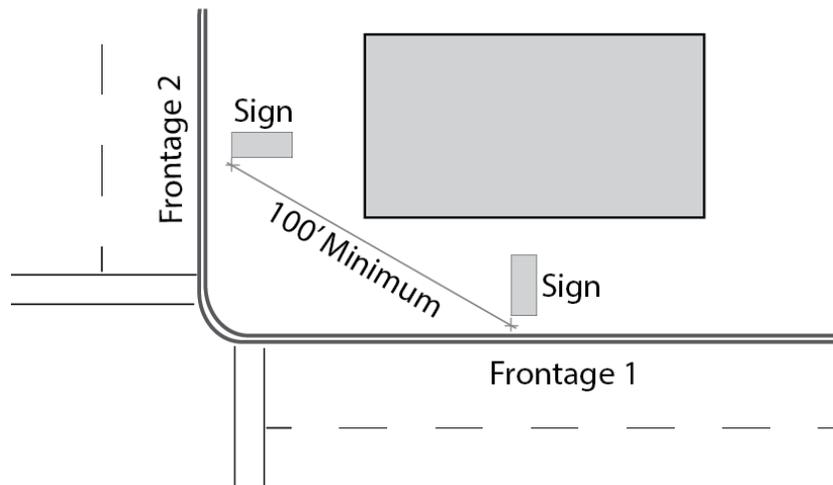
Freestanding ground signs shall not be located within 50 feet of any other freestanding ground sign unless the signs are separated by a street right-of-way. Freestanding ground signs shall not encroach into a street right-of-way or be located in any required sight triangle.

C. Number of Signs Permitted

1. Nonresidential Uses on Individual Parcels

One (1) freestanding ground sign may be displayed per road frontage, provided that where there are multiple road frontages, signs on the subject parcel may not be placed within 100 feet of each other as measured in a straight line.

Figure 12-8: Minimum Separation for Signs on Separate Frontages



2. Nonresidential Uses in Combined Developments

One (1) freestanding ground sign may be displayed per entrance drive to a combined development. Signs may not be placed any closer than 500 feet from each other when located on the same road frontage.

3. Multi-Family Residential Developments

One (1) freestanding ground signs may be displayed per entrance to the development.

4. Single Family Residential Subdivisions

One (1) sign may be displayed on each side of the right-of-way of each external entrance to a single family residential subdivision, provided that such signs are located on property that is owned by the property owners association associated with the subdivision.

D. Additional Signage for Limited Access Highway Frontage

Within the C-2, I-1 and I-2 districts, nonresidential uses situated on parcels which share a property line with the right-of-way of an interstate or other limited access highway shall be permitted to establish an additional sign along such frontage, provided that such sign conforms in all aspects to the other regulations in this Article. Signs displayed in accordance with this provision may have an area of up to 150 square feet and a maximum height of 10 feet.

E. Permitted Sign Height and Area

Ground signs shall be monument style in accordance with 12.1.8.B, and the permitted maximum height and area for ground mounted freestanding signs shall be as follow:

1. C-2, I-1 and I-2 Districts

The maximum permitted area for signs is based upon the gross floor area of the building or combination of buildings located on the subject parcel. For parcels with buildings containing up to 50,000 square feet of gross floor area, the maximum sign area shall be 50 square feet. For each additional 10,000 square feet of gross floor area, a further 10 square feet of sign area is permitted, up to a maximum of 100 square feet of sign area.

The maximum permitted height of signs in these districts shall be 6 feet for signs up to 50 square feet in area and 10 feet for signs with an area exceeding 50 square feet.

2. OI, C-1 and CD Districts

The maximum permitted area for signs is based upon the gross floor area of the building or combination of buildings located on the subject parcel. For parcels with buildings containing up to 10,000 square feet of gross floor area, the maximum sign area shall be 32 square feet. For each additional 10,000 square feet of gross floor area, a further 8 square feet of sign area is permitted, up to a maximum of 64 square feet of sign area.

The maximum permitted height of signs in these districts shall be 6 feet.

3. B-1, CC and TND Districts

The maximum permitted area for signs is based upon the gross floor area of the building or combination of buildings located on the subject parcel. For parcels with buildings containing up to 5,000 square feet of gross floor area, the maximum sign area shall be 16 square feet. For each additional 5,000 square feet of gross floor area, a further 8 square feet of sign area is permitted, up to a maximum of 32 square feet of sign area.

The maximum permitted height of signs in these districts shall be 4 feet.

4. All Other Districts (Excluding PUD and PID Districts)

The maximum sign area shall be 16 square feet, with the exception of signs associated with uses that fall into the Public and Civic Use Group and multi-family developments containing 200 or more dwelling units, which shall be permitted to have signs with an area of up to 32 square feet.

The maximum permitted height of signs in these districts shall be 4 feet, with the exception of signs associated with uses that fall into the Public and Civic Use Group, subdivision entrance signs and signs associated with multi-family developments, which shall be permitted to have a maximum height of 6 feet.

5. PUD and PID Districts

The maximum permitted area and height for freestanding signs shall be governed by the approved comprehensive sign package for the development.

F. Changeable Copy

Additional wall signage may be displayed subject to the following conditions:

1. Manual / Analog Changeable Copy

Manual or analog changeable copy area may be included on any freestanding sign. The area devoted to changeable copy shall be limited to 70% of the total area of the sign face for signs in the C-2, C-1, I-2, and I-1 districts. In all other districts, the maximum changeable copy shall be limited to 50%

2. Electronic Changeable Copy (Digital Reader Boards)

Electronic changeable copy area may be included on any conforming freestanding sign in the C-2, C-1, I-2, I-1, and O-I districts. The Development Review Administrator may also approve electronic changeable copy for elementary and secondary schools in AG, RE, RL, RM-1, RM-2, and RV zoning districts if they are located on a thoroughfare as defined on the City of Concord Thoroughfare Plan. The area devoted to electronic changeable copy shall be limited to 70% of the total area of the sign face. All signs that include an electronic changeable copy feature shall meet the minimum North Carolina Department of Transportation requirements for lighting and message duration contained in NC Administrative Code 2E.0203(3a-c & 4a (i-iii)).

G. Illumination

Freestanding signs may be illuminated either internally or externally with the exception of freestanding signs within zoning districts where single family residences are a use that is permitted by right, in which case only external illumination of wall signs is permitted.

H. Base Landscaping Required

All freestanding signs located within parking or vehicular use areas, and not in yard areas, shall stand in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in this Ordinance.

I. Enhanced Design Incentive

Within the C-2 district, freestanding signs that adhere to the following design guidelines may increase the permitted area of the sign face(s) by up to 50% and the permitted height by up to two (2) feet:

To qualify, sign faces and associated structural components shall be constructed of finished wood, masonry (excluding unfinished concrete block), stone, finished metal, or synthetic solid surface materials. Sign faces shall be

opaque, except for any portion of a routed display area, which may be backed by translucent materials that do not exceed 35% of the surface area of the sign face. Text, logos and graphics displayed on the sign face shall be either etched or routed into the sign face material, encased in the material, or affixed to the exterior of the sign face with a minimum 0.5 inch relief (projection) or separation from the sign face. Illumination may be internal for routed sign faces, halo style backlighting for individually affixed text and graphic elements, or external for any type of sign.

J. Design Requirements in Certain Districts

In all districts, with the exception of the C-2, I-1 and I-2 districts, the design standard established in Section 12.4.4(l) shall be utilized for all freestanding ground signs.

K. Design Standards for Single Family Residential Subdivision Signage

Permitted freestanding signs displayed at the entrance to a single family residential subdivision may only be mounted to a wall or similar entry feature. Such signs shall only be illuminated externally.

12.4.5. PROJECTING SIGNS

A. Where Permitted

Projecting signs are permitted to be displayed by any use within the C-2, C-1, OI, B-1 and CC districts which is also permitted to display a wall sign.

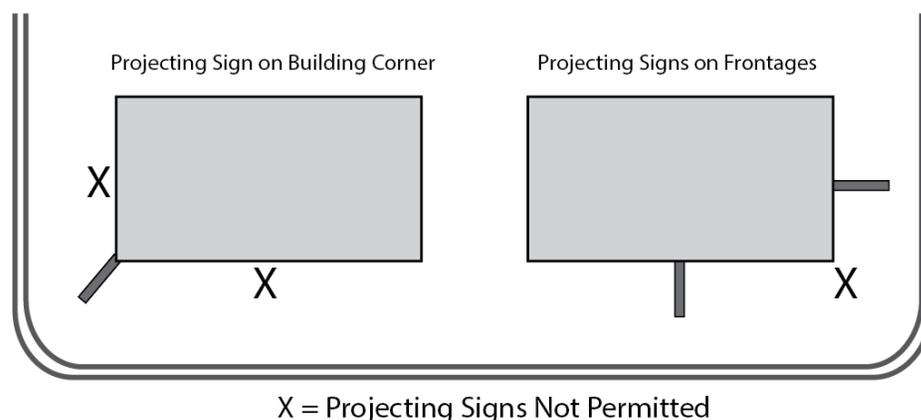
B. Permitted Sign Location

Projecting signs may be displayed on any building wall where a wall sign is permitted to be displayed. Additionally a projecting sign may be displayed at the intersection (corner) of two building walls.

C. Number of Signs Permitted

One (1) projecting sign is permitted per building wall where a wall sign is permitted to be displayed. Where a projecting sign is displayed on the corner of a building, no other projecting sign may be displayed on either intersecting building wall.

Figure 12-9: Projecting Sign Building Corner Placement Restrictions



- D. Permitted Sign Area**
Projecting signs may have an area of up to 16 square feet within the C-2, C-1, OI, B-1 and up to 12 square feet within the CC districts.
- E. Design and Mounting Requirements**
Projecting signs shall be designed so that each face of the sign is parallel to the other face. When mounted at a location other than the corner of a building, the faces of the projecting sign shall be aligned so that they are perpendicular to the building wall.
- F. Projecting Signs on Multi-Tenant Buildings**
Projecting signs may not be displayed at any single tenant space in a multi-tenant building which provides separate exterior entrances to each tenant space unless each tenant space displays a projecting sign. This shall not apply to tenant spaces larger than 25,000 square feet, or to the display of projecting signs on the corners of building walls.
- G. Minimum Clearance Required**
Projecting signs shall be installed in such a manner as to provide a minimum of seven (7) feet of clearance above pedestrian walkways.
- H. Maximum Projection**
Projecting signs shall not project greater than five (5) feet from the building wall to which they are attached. Projecting signs shall be installed so that the edge of the sign closest to the building wall is no greater than 12 inches from such wall. Where such signs will encroach into a public right-of-way, an encroachment agreement shall be secured with the appropriate agency having authority over the right-of-way.
- I. Illumination**
Projecting signs may be illuminated either internally or externally. When illuminated externally, the light source shall be mounted directly to the sign.
- J. Changeable Copy**
No changeable copy feature, either manual or electronic, is permitted to be included on a projecting sign.
- L. Historic Projecting Signs**
Repair, replacement or replicas of historic signs, including internally illuminated, back-lighted, indirect, exposed bulb, or neon signs, are permitted in the Center City District. A photo, picture, drawing, or sketch of the *original* sign shall accompany the sign application that reasonably establishes a date of establishment of the original historic sign prior to January 1, 1966. A Certificate of Appropriateness is required. Historic projecting signs may exceed the maximum permitted area requirements to the extent that the replacement sign is designed to replicate the area of the historic sign.

12.4.6. CANOPY SIGNS

- A. Where Permitted**
Canopy signs may be displayed by any nonresidential use in the C-2, C-1, I-2 and I-1 districts.
- B. Permitted Sign Location**
Canopy signs may be displayed on any freestanding or attached canopy covering a vehicular use area, such as an automobile fueling area or passenger drop-off area.
- C. Number of Signs Permitted**
One (1) sign may be displayed per side of the canopy.
- D. Permitted Sign Area**
Signs may occupy up to 10% of the area of the valance of the canopy, up to a maximum of 24 square feet.
- E. Illumination**
Signs on canopies may be internally or externally illuminated.
- F. Changeable Copy**
No changeable copy feature, either manual or electronic, is permitted to be included on a canopy sign.

12.4.7. INCIDENTAL SIGNS.

- A. Suspended Pedestrian Signs**
One (1) sign no larger than four (4) square feet in area may be suspended from an awning, canopy, breezeway or other pedestrian covering directly in front of a customer entrance for a nonresidential use. Such signs shall be mounted perpendicularly to the customer entrance and maintain a minimum of seven (7) feet of clearance above the pedestrian walkway. Such signs may not be illuminated

Figure 12-10: Suspended Pedestrian Sign

B. Window Signs

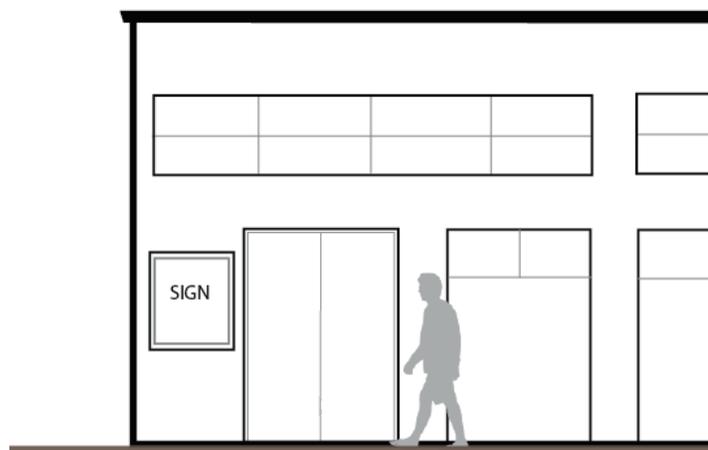
The following standards shall apply to Window Signs

1. Window signs may be displayed by any use which is permitted to display a wall sign.
2. Window signs shall only be permitted to be displayed on windows and doors on the first floor of each building frontage.
3. Address and hours of operation on windows shall not count in the calculation of window sign area.
4. If the storefront entrance is recessed, any signs applied to the glazing of the recessed doors and recessed windows shall count toward the calculation of window sign area.
5. In the Center City zoning district, window signs require a sign permit and are permitted to cover up to 20% of the glazed area of the first floor building frontage on which they are located.
6. In all other districts window signs may occupy an area that is equal to the permitted area of wall signage allowed on each building frontage. Where both window and wall signage are displayed on the same building frontage, the combined area of all window and wall signs displayed on that frontage shall not exceed the 8% square footage limit as set forth in the Wall Sign standards in this Article.

C. Pedestrian Wall Signs

Nonresidential uses may display one (1) sign, not to exceed four (4) square feet in area, on a building wall immediately adjacent to each customer entrance. No more than one (1) sign per entrance is permitted. Signs shall be mounted within four (4) feet of the customer entrance with which they are associated and the top of such signs shall not exceed seven (7) feet above the grade of the adjacent pedestrian walkway.

Figure 12-11: Pedestrian Wall Sign



D. Entrance Drive Signage

One (1) sign, not exceeding four (4) square feet in area, may be displayed on each side of the street entrance to the parking area or internal driveway network of a nonresidential use. Such signs shall not exceed three (3) feet in height, and shall be located within 15 feet of the intersection of the driveway with the right-of-way.

E. Drive Through Signage

One (1) sign, not to exceed 32 square feet in area may be displayed immediately adjacent to a drive through service lane. Such signs shall be oriented to face the drive through service lane.

F. Small Incidental Signs

Permanently installed signs, other than Window Signs, smaller than two (2) square feet in area may be displayed without limitation as to number or location, provided that such signs are mounted or affixed to an occupiable building or other structure subject to regulation by the North Carolina Building Code. Such signs shall not be installed at a height greater than six (6) feet. Only signs installed greater than 30 feet from a street right-of-way shall qualify for this exemption.

G. Regulatory Signs

Signs required to be installed by any local, state, or federal rule, regulation or ordinance may be displayed in accordance with the standard establishing their size and placement. Examples of such signs include required building address signs and fire safety signage.

12.4.8 PERMANENT FLAG DISPLAYS

Up to three (3) flags may be displayed on an individual parcel of land or on an individual building within a combined development. Flags may be mounted on poles not exceeding 30 feet in height when associated with a residential use or 50 feet when associated with a nonresidential use. When mounted to a building wall that is permitted for the display of a wall sign, the size of the flags shall not exceed the maximum permitted wall sign area for that building wall. In no case shall building mounted flag poles extend above the top of the building wall to which they are attached.

12.5. OUTDOOR ADVERTISING (BILLBOARD) SIGNS.

12.5.1. APPLICABILITY.

The maximum permitted sign area, location, characteristics, and number of off-premise Outdoor Advertising Signs shall be determined in accordance with the standards in this § 12.5.

12.5.2. The following regulations shall apply off-premise Outdoor Advertising Signs:

- A. Such signs shall be permitted only in the I-1 and I-2 districts with the issuance of a Conditional Use Permit.
- B. Such signs shall be limited to a maximum size of:
 - 378 square feet along Interstate 85
 - 150 square feet along all other streets or roads.
- C. Such signs shall be setback a minimum of fifty (50) feet from the public right-of-way, or any legal private access road.
- D. Such signs shall not exceed thirty (30) feet in height.
- E. There shall be only one (1) face per side of the sign. “Double-decker” signs with signs erected one over or above the other and side-by-side signs with signs erected one next to the other are prohibited.
- F. Such signs shall be a minimum of one-thousand (1,000) feet from any Residential Zoning District or residentially developed property. The distance shall be measured radially from the nearest point of the proposed sign location to the nearest point of the residential district or property.
- G. Each such sign shall be a minimum of one-thousand (1,000) feet from any other off-premises outdoor advertising sign, located on the same or on the opposite side of the street. The distance shall be measured radially from the nearest point of the proposed sign location to the nearest point of the existing sign location.
- H. Such signs shall be a minimum of one-hundred (100) feet from the nearest point of any existing building, off-street parking area or other building or structure. The distance shall be measured radially from the proposed nearest point of the sign location to the nearest point of the building, off-street parking area or other building or structure.
- H. No vegetation in the public right-of-way shall be cut for the purpose of increasing or permitting visibility to such off-premises outdoor advertising sign unless approved by the chief engineer of the governmental authority having jurisdiction over such right-of-way.
- I. No off-premises outdoor advertising sign shall be located in a required front yard setback.

- J. Such signs shall meet 30 PSF wind loading requirements and all supports shall be of steel, aluminum, concrete or other non-combustible material.
- K. No such sign shall be erected closer than ten (10) feet from any conductor of electricity, and all such signs shall comply with all requirements of the National Electrical Code with respect to clearance from overhead electrical conductors.
- L. Billboards with LED or electronic reader boards are not permitted. (See Section 12.2 Prohibited signs)

12.5.3. DIGITAL DISPLAY BILLBOARD CONVERSION

The conversion of existing static billboards to digital display sign faces shall be permitted in accordance with the following additional standards:

A. Where Permitted

The conversion of a billboard with a static sign face to digital display sign face shall only be permitted where the existing sign is located within 100 feet of the right-of-way of a limited access highway. Conversions are prohibited within 500 feet of a residential use (as measured from the closest point of the structure housing such use). "Limited access highway" means a highway, or section of highway, especially designed for through traffic, and over, from or to which highway owners or occupants of abutting property, or others, shall have only a controlled right or easement of access whether such control is exerted by means of entrance and exit ramps or by issuance of driveway permits by the local, state or federal government having jurisdiction of the highway.

B. Minimum Separation

The conversion of a static billboard to a digital display sign face shall only be permitted if there are no other billboards of any type (within the jurisdiction of the City of Concord) within 2,000 feet of the billboard proposed for conversion. If a billboard proposed for conversion has any other billboard within 2,000 feet, such other billboard(s) shall be removed prior to the issuance of a permit for the conversion. Following the conversion of a static billboard to a digital display sign face, no other billboard of any type may be established within 2,000 feet of the digital display billboard within the jurisdiction of the City of Concord.

C. Standards for Billboards with Digital Displays

In addition to meeting the standards of Section 12.5.2, as applicable, all billboards with digital display sign faces shall meet the minimum North Carolina Department of Transportation requirements for lighting and message duration contained in NC Administrative Code 2E.0203(3a-c & 4a (i-iii)).

ARTICLE 13

NONCONFORMING USES AND STRUCTURES AND VESTED RIGHTS

Summary: This Article provides guidance on nonconforming uses, lots, and structures, vested rights, and expiration of development approvals.

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13.1. NONCONFORMING USES, LOTS AND STRUCTURES - PURPOSE

It is recognized that lawful nonconformities (uses, lots or structures) may currently exist or may develop as a result of either amendments to the CDO or amendments to the zoning map. Such nonconformities may continue, but generally should not be changed, expanded or enlarged in such a manner as to increase the extent of the nonconformity. It is the purpose of this section to encourage the eventual cessation of nonconformities, but to provide a procedure for approval of limited changes, expansions, and enlargements to nonconforming uses.

13.1.1 CONTINUATION OF NONCONFORMING USES AND NONCONFORMING STRUCTURES

Any nonconforming uses or structures in existence at the time of the adoption of this Ordinance may be continued and shall not be subject to this Ordinance to the extent that the regulations, restrictions and requirements of this Ordinance would prohibit that use, or to the extent that such structure would not be permitted to remain. Any nonconforming use or nonconforming structure which, at any time, is not in use for a one-hundred and eighty (180) day period following the adoption of these regulations shall be considered to have discontinued operations and, therefore, regardless of the reason or intent of such discontinuance, will no longer be permitted. The initial decision as to whether an existing nonconforming use or nonconforming structure has been abandoned shall be made by the Administrator, subject to said decision being appealed to the Board of Adjustment by the affected property owner within thirty (30) days of the ruling by the Administrator. See Article 12.3.B for non-conforming sign requirements.

13.1.2 NONCONFORMING LOTS OF RECORD

A. Single Lot of Record

1. Permitted uses in any district may be allowed on any single lot of record existing on November 23, 2000 notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, generally applicable in the zoning district.
2. Any existing lot of record which does not conform with lot area, depth or width requirements may be used for any permitted use in that zoning district so long as the parcel is not reduced in any manner or diminished so as to cause yards, lot coverage, or other open spaces to be less than required, except as provided in subsection 13.1.2.1.3.
3. Dimensional requirements other than those applying to lot area, depth or width shall be met, provided that the Administrator may allow a reduction of not to exceed twenty-five per cent (25%) in the dimension of any required yard.

Approval shall depend upon a written finding that such reduction is reasonably necessary for practical use of the lot and will not have substantial adverse effects on adjacent property. Reduction of yard requirements by more than twenty-five per cent (25%) shall be obtained only through a variance granted by the Board of Adjustment.

13.1.3 CHANGES TO NONCONFORMING USES

- A. A nonconforming use shall not be changed to another nonconforming use except as provided in this section 13.1.3.
- B. No structural alterations shall be made to a building or other Structure substantially occupied by a nonconforming use except as necessary:
 1. To comply with the requirements of a federal or state laws or regulations, or local ordinance of general applicability;
 2. To accommodate a Conforming Use; or
 3. To make such structure conform to the applicable dimensional regulations.
 4. A nonconforming use may be changed to any conforming use. The applicable zoning district dimensional regulations of Table 7.6.2.A shall not apply to such change of use. However, all other design

standards of this Ordinance (such as parking, landscaping, etc.) shall apply.

- C. A nonconforming use may be changed or converted to another nonconforming use which more closely approximates permitted uses in the Zoning District, with respect to scale and intensity of use, upon issuance of a Certificate of Nonconformity Adjustment, provided that such proposed use is not prohibited as specified in Section 13.1.3.D.4. Changes or conversions of an existing nonconforming use to another nonconforming use shall be subject to the following requirements.
1. Off-street parking and loading areas shall be improved to the minimum standards specified in Article 10.3. Changes which require additional parking shall provide the minimum required parking area.
 2. Standard landscaping and buffering shall be provided as specified in Article 11, to the greatest extent possible.
 3. All nonconforming signs located on the property shall be removed or replaced with conforming signs.
 4. Changes or conversions of an existing nonconforming use to any of the following nonconforming uses are prohibited:
 - Junkyards/salvage yards;
 - Sexually oriented businesses;
 - Outdoor storage yards; and
 - Signs.
- D. When considering a Certificate of Nonconformity Adjustment for the change or conversion of a nonconforming use to another nonconforming use, the Board of Adjustment shall evaluate the following:
1. whether the proposed use is of a less intense nature and scale than the existing use;
 2. the amount of traffic and parking associated with the proposed use as compared to the existing use;
 3. the number of persons (including employees and customers) on the premises at the time of peak demand;
 4. the potential noise and glare impacts associated with the proposed use; and
 5. the compatibility of the specific proposed use with the adjacent uses, and with the adjacent zoning pattern.
- E. Submission requirements for a Certificate of Nonconformity Adjustment shall include:

1. a site plan illustrating the existing conditions of the subject property and the required site improvements as specified above; and
 2. a written narrative on a form provided by the City, addressing the items specified in Section 13.1.3.D.1-5 above.
- F. In the event of the issuance of a Certificate of Nonconformity Adjustment to change or convert a nonconforming use, the use may not be changed back to the previous use through the Certificate of Nonconformity Adjustment process.

13.1.4 EXPANSIONS OR ENLARGEMENTS OF NONCONFORMING USES

- A. A nonconforming use shall not be expanded or enlarged except as provided in this section 13.1.4.
- B. A nonconforming use may be enlarged in order:
1. To comply with the requirements of a federal or state laws or regulations or local ordinance of general applicability;
 2. To make such structure conform to the applicable dimensional regulations.
- C. A nonconforming use may also be expanded or enlarged upon issuance of a Certificate of Nonconformity Adjustment. Expansions or enlargements of nonconforming uses shall be subject to the following requirements.
1. Expansions or enlargements of nonconforming uses shall be limited to a maximum of fifty percent (50%) of the floor area, or land area devoted to the nonconforming use. Only one expansion or enlargement of a nonconforming use shall be permitted. In the event that the property is subdivided after issuance of a Certificate of Nonconformity Adjustment, none of the resulting properties shall be eligible for approval of future expansions or enlargements. Additions of accessory uses and/or structures shall be considered expansions, however; installation of mechanical equipment incidental to the operation of the development (such as air conditioning or heating equipment, utility meters, etc.) shall not be considered expansion, provided such installation meets the building setbacks for the district in which the use is located.
 2. Off-street parking and loading areas shall be improved to the minimum standards specified in Article 10.3. Expansions or enlargements which require additional parking shall provide the minimum required parking area.

3. Standard landscaping and buffering shall be provided as specified in Article 11, to the greatest extent possible.
 4. All nonconforming signs located on the property shall be removed or replaced with conforming signs.
 5. Expansions or enlargements of the following nonconforming uses are prohibited:
 - Junkyards/salvage yards;
 - Sexually oriented businesses;
 - Outdoor storage yards; and
 - Signs
- D. When considering a Certificate of Nonconformity Adjustment for an expansion or enlargement of a nonconforming use, the Board of Adjustment shall evaluate the following:
1. The increase of intensity and scale of the expansion or enlargement;
 2. The amount of traffic and parking associated with the proposed increase of floor and/or land area;
 3. The anticipated increase in the number of persons (including employees and customers) on the premises at the time of peak demand;
 4. The potential noise and glare impacts associated with the proposed expansion or enlargement; and
 5. The compatibility of the specific proposed addition or enlargement with the adjacent uses, and with the adjacent zoning pattern.
- E. Submission requirements for a Certificate of Nonconformity Adjustment shall include:
1. A site plan indicating the proposed expansion or enlargement; and the required site improvements as specified above; and
 2. A written narrative on a form provided by the City, addressing the items specified in Section 13.1.4.D.1-5 above.

13.1.5. NONCONFORMING STRUCTURES

- A. Expansions or additions to structural parts of a nonconforming building or other structure shall be permitted with the issuance of a Certificate of Nonconformity Adjustment. Repairs to existing nonconforming buildings or structures that do not include an expansion or addition shall not require a Certificate of Nonconformity Adjustment.
- B. Nonconforming buildings or other structures shall not be expanded or enlarged unless such expansion or enlargement shall comply with all applicable zoning district dimensional regulations.

13.1.6. CONTINUED NONCONFORMANCE AFTER DAMAGE OR DESTRUCTION

- A. When a nonconforming building or structure or a building containing a nonconforming use is damaged or destroyed by fire, storm or other casualty, such Building may be rebuilt, reconstructed and/or reoccupied only in accordance with the provisions of this § 13.1.6.
- B. Where a building or other structure substantially occupied by a nonconforming use is damaged or destroyed as a result of fire or other natural/uncontrollable factor, such building or structure may be reconstructed and such Nonconforming Use may be continued, provided that any such reconstruction does not increase the degree of any nonconformance, and only upon receipt of a Zoning Clearance Permit. However, if a building or other structure substantially occupied by a nonconforming use is voluntarily removed or altered, such structure and site shall be subject to all applicable design standards of this Ordinance, and shall be permitted only upon the issuance of a Certificate of Nonconformity as set forth in Section 13.1.3 and/or 13.1.4, above.

13.1.7. REPLACEMENT OF NONCONFORMING MANUFACTURED HOMES ON INDIVIDUAL LOTS

- A. Nonconforming manufactured homes on individual lots may be removed and replaced provided that the replacement manufactured home is a Type II (double-wide) or larger, and must conform to the design and installation standards of Section 9.6.3 of this Ordinance.

13.1.8. NONCONFORMING MANUFACTURED HOME PARKS

- A. All manufactured home parks made nonconforming by this Ordinance and not operating under a special use permit in accordance with this Ordinance may continue. However, the arrangement of spaces is not to be altered nor the number of spaces increased. In the absence of a plat recorded in the Cabarrus County Register of Deeds office prior to June 30, 1981, records in the Cabarrus County Tax Supervisor's office will be utilized as verification reflecting the number of lots the individual paid taxes on.

- B. Manufactured homes within nonconforming parks may be removed and replaced provided that the replacement manufactured home conforms to the design and installation standards of Section 9.6 of this Ordinance.

13.2 VESTED RIGHTS

13.2.1 PURPOSE AND INTENT

The purpose and intent of this Section is:

- A. To provide detailed administrative rules, regulations and procedures in order to guide officials in the administration, interpretation and implementation of the Concord Development Ordinance, and/or any other ordinances, regulations and or administrative rules adopted by the City in order to implement a comprehensive plan for development.
- B. To establish predictability and fairness for affected landowners;
- C. To recognize that development projects for which vested rights have been obtained must be accounted for in the *Comprehensive Plan*, this Development Ordinance, capital improvements programs, and other land development regulations.
- D. To provide a method for determining and quantifying the number of projects, development projects, and land uses, which do not now comply with this Ordinance, or which may in the future fail to comply with this Ordinance due to subsequent amendments to this Ordinance but which are vested, so that such projects, development projects and land uses can be accounted for in the existing and future general plans and this Ordinance.
- E. To establish uniform and non-burdensome procedures and specific criteria for the determination of vested rights and claims of equitable estoppel in order to aid in the accomplishment of sound and orderly planning;
- F. To define the scope of vested rights that have been obtained by virtue of prior development approvals, including the expiration of development permits;
- G. To protect legitimate investment-backed expectations;
- H. To protect the planning and implementation process;
- I. To settle potential disputes and to minimize protracted and costly litigation;
- J. To facilitate implementation of the goals, objectives and policies set forth in the *Comprehensive Plan*; and
- K. To ensure that all applicable legal standards and criteria are utilized in the determinations to be made hereunder.
- L. To implement the provisions of NCGS § 160D-108 *Vested Rights*.

13.2.2. APPLICABILITY

This § 13.2 shall apply to any person(s) desiring to obtain a right to develop land beyond the time limitations as set forth in other sections of this Ordinance.

13.2.3. AUTHORIZATION

The provisions of this Section 13.2 are authorized by NCGS § 160D-108 *Vested Rights*.

13.2.4. ESTABLISHMENT OF VESTED RIGHTS

- A. Vested Right shall be deemed established for any property upon the approval (with or without conditions) of a Site Specific Development Plan or a Phased Development Plan by the appropriate City decision-making agency in accordance with the provisions of this section 13.2.
- B. Notwithstanding the provisions of this § 13.2.4, the approval of a Site Specific Development Plan with the condition that a Variance be obtained shall not establish or be deemed to establish a Vested Right unless and until the Variance is obtained.

13.2.5. DURATION

- A. An amendment or modification of a Site Specific Development Plan or Phased Development Plan shall not extend the Vested Rights period unless the approval shall specifically provide for such extension.
- B. A Building Permit which is issued for a development for which Vested Rights have been established shall not expire or be revoked because of the time limitations on validity of permits under NCGS § 160D-403 et seq. prior to the expiration of the Vested Rights period.
- C. Where a Variance is required as a condition of the approval of a Site Specific Development Plan, the effective date of the approval which commenced the period for development shall be the date on which the Variance is granted.
- D. A right to develop a Building or Structure or Use which has been vested as provided in this section 13.2 shall terminate at the end of the applicable vesting period for all Buildings or Structures and Uses for which no valid application for a Building Permit has been filed.
- E. **Voluntary Annexation:** In accordance with NCGS § 160A-31(h) and 160A- 58.1(d), petitioners filing for voluntary annexation shall also submit a statement declaring whether or not vested rights with respect to the properties subject to the petition have been established. Whenever the City acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights under a permit, certificate, or

other evidence of compliance issued by the local government surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The City may take any action regarding such a permit, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its ordinances and regulations.

13.2.6. PROCEDURE FOR APPROVAL OF A VESTED RIGHT

- A. The procedures for approval of a Site Specific Development Plan are set forth in § 13.2.8, below. The procedures for approval of a Phased Development Plan are set forth in § 13.2.9, below.
- B. Upon approval of a Site Specific Development Plan or a Phased Development Plan, each and every map, plat, site plan or other document prepared or used for the Development shall contain the following notation:
 - 1. “Approval of this Site Specific Development Plan establishes a Vested Right under North Carolina General Statutes § 160D-108. Unless terminated at an earlier date, the Vested Right shall be valid until [date approved by City].”

13.2.7. SCOPE OF VESTED RIGHTS

- A. Following approval or conditional approval of a site specific development plan or a phased development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the City from revoking the zoning clearance permit for failure to comply with applicable terms and conditions of the approval or this Ordinance as set forth in Section 1.6.
- B. A vested right, once established as provided for in this section, precludes any zoning action by the City which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan or an approved phased development plan, except:
 - 1. With the written consent of the affected landowner;
 - 2. Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan or the phased development plan;

- C. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the City, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
 - 1. Upon findings, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the City of the site specific development plan or the phased development plan; or
 - 2. Upon the enactment or promulgation of a State or federal law or regulation which precludes development as contemplated in the site specific development plan or the phased development plan, in which case the City may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
- D. The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land-use regulation by the City, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property which is subject to a site specific development plan or a phased development plan upon the expiration or termination of the vesting rights period provided for in this section.
- E. Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change or impair the authority of the City to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses. (See § 13.1 of this Ordinance).
- F. A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan or a phased development plan, all successors to the original landowner shall be entitled to exercise such rights.
- G. Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

13.2.8 SITE-SPECIFIC DEVELOPMENT PLANS (SSDPs)

- A. **GENERAL:** The City Council or the Planning and Zoning Commission may, but under no circumstances is it required, to approve a Site-Specific Development Plan (SSDP). The SSDP shall bind the applicant and the City Council (the "parties") and shall contain those terms and conditions agreed to by the parties and those required by this Section. The Administrator and the City Attorney, or their designees, are authorized to negotiate Development Agreements on behalf of the City Council to enforce a SSDP.
- B. **Applicability:** The City Council or the Planning and Zoning Commission may approve a SSDP pursuant to this Section only if the proposed development to which the SSDP pertains is in conformity with the then adopted *Comprehensive Plan* and capital improvements program, zoning regulations, and other applicable requirements of this Ordinance. The SSDP shall be used solely as a means to enforce compliance with the terms of this Ordinance, and shall not be considered an inducement for the approval of any application for development approval.
- C. **Duration:** Upon approval of a Site Specific Development Plan, the right to develop such Development or Use shall continue for period of two (2) to five (5) years from the date of approval of such Site Specific Development Plan.

Notwithstanding the foregoing, the City, in its approval, may authorize a Vested Rights development period of longer than two (2) years, but in no event longer than five (5) years, if, in the City's sole discretion, such longer period is necessary because of the size and phasing of the Development, the investment in the Development, the need for the Development, economic cycles, and such other conditions as the City may consider relevant.

- D. **Procedure for Approval of an SSDP:** An application for an SSDP may be made to the Administrator in accordance with the procedures set forth herein. Application may be made by the landowner. If made by the holder of an equitable interest, the application shall be accompanied by a verified title report and by a notarized statement of consent to proceed with the proposed SSDP executed by the landowner. Application may be made by the Planning Commission or the City Council. If made by the Planning Commission or the City Council, the applicant shall obtain and attach a notarized statement of consent to proceed with the proposed SSDP executed by the owner of the subject property.
- E. **Coordination of SSDP Application with other Discretionary Approvals:** It is the intent of these regulations that the application for an SSDP will

be made and considered simultaneously with the review of other necessary applications; including, but not limited to, land-use approval designation as may be utilized by the City. If combined with an application for rezoning, , planned development or conditional district zoning, the application for a SSDP shall be submitted with said application and shall be processed, to the maximum extent possible, jointly to avoid duplication of hearings and repetition of information. A SSDP is not a substitute for, nor an alternative to, any other required permit or approval, and the applicant must comply with all other required procedures for development approval.

F. Contents of a SSDP: No SSDP shall be approved by the City Council or Planning and Zoning Commission, nor shall any such SSDP or any provision of such SSDP have any legal force and effect, unless the application contains the following minimum provisions:

1. The approximate boundaries of the site;
2. Significant topographical and other natural features effecting development of the site;
3. The approximate location on the site of the proposed buildings, structures, and other improvements;
4. The approximate dimensions, including height, of the proposed buildings and other structures;
5. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways; and
6. Any other matters set forth in NCGS § 160D-385-1(b)(5).
7. The provisions of this Section supplement, but do not replace, any additional information required by Appendix B for any site plan, Planned Unit Development plan, a TND Greenfield application, a subdivision plat, a conditional use permit, a conditional use district zoning plan, or any other application for development approval required for the proposed development.

G. Approval of City Council or Planning and Zoning Commission: No SSDP shall become effective until approved by the City Council or Planning and Zoning Commission. What constitutes a site specific development plan under this section that would trigger a vested right shall be finally determined by the document that triggers such vesting shall be so identified at the time of its approval. The City Council or Planning and Zoning Commission shall consider the proposed SSDP consistent with any procedures as may be established pursuant to NCGS § 160D-108. The City Council or Planning and Zoning Commission may:

1. Approve the SSDP;
2. Approve the SSDP with conditions; or
3. Reject the SSDP, in whole or in part, and take such further

action as it deems to be in the public interest.

4. The City Council or Planning and Zoning Commission, in approving an SSDP, shall expressly find that the agreement meets those criteria in this Ordinance for approval of the Applications for Development Approval.

- H. **Recordation of SSDP:** No later than ten (10) days after the City Council or Planning and Zoning Commission approves an SSDP, the Administrator shall record a copy of the SSDP with the county register of deeds, and the recordation constitutes notice of the SSDP to all persons. The burdens of the SSDP are binding on, and the benefits of the SSDP inure to, the parties to the agreement and to all their successors in interest and assigns.
- I. **Covenants:** Unless otherwise provided in the SSDP, any covenant by the City Council or Planning and Zoning Commission contained in the SSDP to refrain from exercising any legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period not exceeding that specified in NCGS § 160A-385(d)(1). The covenant shall also contain a proviso that the City Council or Planning and Zoning Commission may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if it makes a determination on the record that the action is necessary to avoid a substantial risk of injury to public health, safety and general welfare. The covenant shall contain the additional proviso that the City Council or Planning and Zoning Commission may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.
- J. **Notice of Decision:** Within ten (10) days following a decision of an SSDP, the Administrator shall give notice of such action to the applicant.
- K. **Third Party Rights:** Except as otherwise expressly provided in the SSDP, the SSDP shall create no rights enforceable by any party who/which is not a party to the SSDP.
- L. **Amendment or Cancellation:** An SSDP may be amended, or cancelled in whole or in part, by mutual consent of the parties to the SSDP or by their successors in interest or assigns.

13.2.9. MULTI-PHASE DEVELOPMENTS

The procedures and requirements pertaining to Multi-Phase Developments shall be the same as those set forth for SSDP's in § 13.2.8, except as provided below, and in accordance with 160D-108:

- A. **Duration:** The City Council or Planning and Zoning Commission may, but

under no circumstances is it required, provide by ordinance that approval by the City Council or Planning and Zoning Commission of a multi-phase development shall vest the zoning classification or classifications so approved for a period not to exceed seven (7) years.

- B. **Procedure:** The document that triggers such vesting shall be so identified at the time of its approval. The City Council or Planning and Zoning Commission still may require the landowner to submit a site specific development plan for approval by the city with respect to each phase or phases in order to obtain final approval to develop within the restrictions of the vested zoning classification or classifications.
- C. **Discretion:** Nothing in this section shall be construed to require the City Council or Planning and Zoning Commission to adopt an ordinance providing for vesting of rights upon approval of a multi-phase development.

13.3. EXPIRATION OF DEVELOPMENT APPROVALS

13.3.1. TIME OF EXPIRATION

Unless otherwise specifically provided for in this Ordinance, development applications shall automatically expire and become null and void, and all activities taken pursuant to such development application shall cease and become null and void, and all activities pursuant to such approval thereafter shall be deemed in violation of this Ordinance, when: 1) the applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the application for development approval, or that was made pursuant to the terms of any development agreement, including the failure to abide by specified time limits established therein; or 2) the applicant fails to present a subsequent development application as required by this title within the time so required or as may be required by Table 13.3-1 or 13.3-2 this Ordinance or North Carolina law. If no time limit for satisfaction of conditions is specified in the original or revised approval of the development application, the time shall be presumed to be twelve (12) months from the date of approval.

13.3.2. DATE FROM WHICH TIME LIMIT IS MEASURED

- A. Each time period referenced on Table 13.3-1 and Table 13.3-2 shall run from the final action of the appropriate official, officer, board, commission or the governing body with valid and legal jurisdiction to take such action or to approve such plans or to issue such permits. Except as may be otherwise indicated herein, the date of final action shall be the date such action was taken or such approval was granted or such permit was issued, as set forth on such action, approval or permit.

- B. In order to assure that all applicants for actions, approvals or permits are informed of the applicable time limit, the date of final action and the expiration date shall be shown on each such action, permit or approval; but provided, however, that the Administrator's failure to include either the date of final action or the expiration date shall not be deemed to be a waiver of such dates nor shall it be the basis of any action by the applicant to challenge the applicable expiration date. The burden is on the applicant to know the date of issuance and the expiration date. If either or both of such dates are not shown, the applicant may request, and the Administrator shall promptly supply such date or dates.
- C. All actions, approvals or permits shall expire on the expiration date unless a valid extension has been granted on or before the expiration date pursuant to section 13.3.3 herein.

13.3.3. EXTENSIONS OF TIME LIMITS

- A. **Extension:** Unless otherwise prohibited by North Carolina law or this Ordinance, the Administrator may extend the time for expiration of a development permit or approval for a period not to exceed one (1) year from the date of the original decision granting approval, if the application for extension is made in writing within the original period of validity. Subsequent extensions may be made by the final approval body upon finding that conditions at the time of approval have not changed.
- B. **Additional Extensions:** There shall be no additional extensions of any time limits for actions, approvals or permits set forth herein, as of right. Any extensions must be expressly requested by the applicant, in writing, and approved by the appropriate official, officer, board, commission or the governing body which originally took the action, approved the plan or issued the permit.
- C. A request for an extension of an expiration date shall be made on a form provided by the Administrator and shall include, but shall not necessarily be limited to, the following:
 - 1. The current date of expiration;
 - 2. The extension period requested, which shall be no longer than the original period of time granted; and
 - 3. The reason(s) that the applicant has been unable to proceed within the period of the original expiration date.
- D. Before granting an extension, the official, officer, board, commission or the governing body shall determine whether any applicable changes in land use regulations have occurred which would impose new requirements with respect to such action, approval or permit, if an extension were denied, and the applicant were compelled to re-file for

an original action, approval or permit. If changes have occurred, the official, officer, board, commission or the governing body shall balance the burden imposed on the applicant if required to re-file for an original action, approval or permit against the benefit accruing to the public by requiring the applicant to comply with the new regulation.

Table 13.3-1

TIME LIMITS FOR USE OF ZONING APPROVALS AND PERMITS *

Action/Permit/Approval	Time Limit
Zoning Map Amendments including Conditional District Map Amendments	Indefinite. Zoning Map amendments must be processed and approved under the procedures in Article 3 in order to modify the zoning.
Special Use Permit under the current or a former ordinance (or a Conditional Use Permits under a former Ordinance)	The permit is valid until it is amended, modified or removed by a subsequent quasi-judicial procedure or the owner has abandoned the Permit by constructing a different use on the property.
Special Use Permit granted after June 30, 2021	Two (2) years from date of approval
Variance	No expiration date
Preliminary Subdivision Plat	The approval of a preliminary site plan shall be effective for a period of three (3) years from the date of approval, at the end of which time the applicant must have submitted an application for a final plat. Extensions are permissible in certain instances. (See Section 5.2.5). Once furtherance of the preliminary plat is determined, the plan shall remain valid through the period of construction.
Final Site Plan	The approval of a final site plan shall be effective for a period of one (1) year from the date that the final site plan is approved by the Administrator at the end of which time, substantial construction shall have commenced and shall continue without interruption, or a complete building permit application shall be submitted and reviewed by the Administrator. Failing same, the final approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan subject to the then existing provisions of this Ordinance.

* Where Vested Rights have been established in accordance with Section 14.2 of this Ordinance, the time limits as set forth in Section 14.2 shall apply.

ARTICLE 14 DEFINITIONS

Summary: This Article provides a glossary of terms to be used when interpreting and applying this Ordinance.

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14.1 GENERAL PROVISIONS

14.1.1. TERMS DEFINED

Words contained in this Article are those having a special meaning relative to the purposes of this Ordinance. Words not listed in this section shall be defined by reference to: (1) Chapter 2 of the State Building Code (Standard Building Code, 1997) or, have their common definitions as found in modern dictionaries of the English language. The documents indicated above are hereby incorporated by reference as if set forth in their entirety herein. Words and terms not defined in this A Article but defined elsewhere in the Concord Development Ordinance shall be given the meanings set forth therein. Particular uses not defined herein shall have the meaning assigned in the Use Matrix and the NAICS Manual (see Section 8.2of this Ordinance.)

14.1.2. WORD USAGE

In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- A. Words used or defined in one tense or form shall include other tenses and derivative forms.
- B. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- D. The word "shall" is mandatory.
- E. The word "may" is permissive.
- F. The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities.
- G. The word "City" shall refer to the City of Concord
- H. The word "Board" shall mean the Board of Adjustment.
- I. The words "Planning Commission" shall mean the City Planning Commission.

- J. The words "Recorder" and "Recorder of Deeds" shall mean the County Register of Deeds.
- K. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control.
- L. All provisions of this ordinance shall be construed to be in addition to all other applicable laws, ordinances and rules of the federal government, the State of North Carolina or the City; and in case of any conflict between this ordinance and any such other law, ordinance or rule, the more restrictive shall prevail.
- M. The words "include" and "including" mean include or including by way of illustration and not by way of limitation.

A-FRAME SIGN - A portable sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form the base on which the sign stands.

ABBATTOIR - See Slaughterhouse.

ABANDONMENT - The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

ABUT- Having property or District lines in common.

ABUTTING PARCELS - Parcels which are directly touching and have common parcel boundaries. (Parcels across a public right-of-way shall not be considered abutting.)

ACCESSIBLE - Having access to, but which first may require the removal of a panel, door or similar covering of the item described. See Accessible, Readily. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

ACCESSIBLE, READILY - Having direct access without the need of removing any panel, door or similar covering of the item described, and without requiring the use of portable ladders, chairs, etc. See Accessible. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

ACCESSORY - see Accessory Use.

ACCESSORY APARTMENT - see Accessory Dwelling.

ACCESSORY DWELLING - A Dwelling Unit that is accessory, supplementary, and secondary to the principal Dwelling Unit that may be constructed as an addition to

the principal structure or as an accessory to the principal structure. An Accessory Dwelling is detached from the principal Dwelling Unit. See § 8.4 of this Ordinance.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE) - A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ACCESSORY USE - A subordinate Use of a Building or other Structure, or Use of land which is:

1. conducted on the same Lot as the principal Use to which it is related, and
2. clearly incidental to, and customarily found in connection with, such principal Use.

(See § 8.4 of this Ordinance.)

ACTIVE OPEN SPACE - Active open space shall mean any park or recreational facility that is not dependent upon a specific environmental or natural resource, which is developed with recreation and support facilities that can be provided anywhere for the convenience of the user. Activity-based recreation areas include, but are not limited to, playgrounds, golf courses, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, swimming pools, clubhouses, equestrian facilities, and tennis courts.

ADDITION (TO AN EXISTING BUILDING) - An extension or increase in Floor Area or height of a Building or Structure. (Source: North Carolina State Building Code, Vol. 1, § 202)

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE - See Sedimentation Control Standards in Article 4.

ADJACENT - All properties immediately contiguous to a development site, including those which are separated from the site only by a road or other right-of-way or easement.

ADJOIN - Touching at some point.

ADMINISTRATIVE DECISION - Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set for the in § 3.2 of this Ordinance or any other development regulations. These are sometimes referred to as ministerial decisions or administrative determinations. (Source NCGS § 160D-102)

ADMINISTRATOR - The officer charged with the authority and duty to administer this Ordinance pursuant to § 2.1 herein.

ADT - Average Daily Traffic

ADULT CARE HOME - An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. As distinguished from a nursing home, an "adult care home" means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes. Adult care homes and family care homes are subject to licensure by the Division of Facility Services. Includes any "Adult Care Home" as defined by NCGS § 131D-2, NCGS § 131D-20, NCGS § 131E-76, § 131E- 101 (including any "combination home").

ADVANCEMENT OF CAPACITY - The provision, by an Applicant for development approval or any other entity or person, of a Public Facility, or funding sufficient to ensure the acquisition of any necessary right-of-way and construction of a Public Facility, prior to the scheduled date of construction of the Public Facility in the Capital Improvements Program.

AFFILIATE - A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of, another person.

AGGRIEVED PERSON - The City Council, the Planning Commission, or the Administrator; a county or municipality within an area designated as a joint planning area;

applicants, and persons, businesses, corporations, institutions, governments or other entities owning property or residing within one thousand (1,000) feet from the exterior boundaries of a proposed development; and any other person having standing to challenge a development order pursuant to North Carolina law.

AGRICULTURE- The commercial production, storage, processing, marketing, distribution or export of any agronomic, floricultural, horticultural, viticultural, silvicultural or aquacultural crop including, but not limited to, farm products, livestock and livestock products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products. (Source: the "North Carolina Agricultural Finance Act, NCGS § 122D-3)

AGRICULTURAL ANIMALS - The following animals are considered accessory agricultural animals to an agricultural use, whether used for personal enjoyment or for commercial purposes: horses, mules, burros, sheep, cattle, rabbits, chickens, ducks, geese, pigs, goats, ostrich, emu or rhea.

AGRICULTURAL CONSERVATION EASEMENT- A negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement: (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations; and (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question. (Source: NCGS § 106- 744, The Farmland Preservation Enabling Act)

AGRICULTURAL LAND - Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(1), and each tract must be under a sound management program. Sound management program. -- A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS § 105-277.2).

AGRICULTURAL PRODUCE - Fruit, vegetables, eggs and honey prior to processing of any kind other than washing. Canned fruits or vegetables, preserves, wine, meat and dairy products shall not be considered agricultural produce for the purposes of this Ordinance.

AIRPORT AND RELATED USES - Any public or private airport including terminal buildings, towers, runways, and other facilities directly pertaining to the operation of the airport.

ALLEY- Any public space or thoroughfare 20 feet (6096 mm) or less wide which has been dedicated or deeded for public use. (Source: North Carolina State Building Code, Vol. 1, § 202)

ALTER or ALTERATION - Any change or modification in construction or occupancy. (Source: North Carolina State Building Code, Vol. 1, § 202)

ALTERATION OF A WATER COURSE - A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

AMBULATORY SURGICAL FACILITY - A facility designed for the provision of an ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under NCGS Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility. Includes any "ambulatory surgical facility" as defined in NCGS § 131E-146 or NCGS § 131E-176.

AMENDMENT - An amendment to the Concord Development Ordinance or a new Concord Development Ordinance.

AMERICAN STANDARD FOR NURSERY STOCK - The publication entitled "American Standard for Nursery Stock" (ANSI Z60.1-1996), approved November 6, 1996, published by the American Nursery and Landscape Association ("ANLA")(formerly the American Association of Nurserymen), which document is hereby incorporated by reference as if set forth in its entirety herein. Said document may be obtained by contacting ANLA at 1250 I Street NW, Suite 500, Washington, D.C. 20005 (202/789-2900).

AMPLITUDE - The maximum displacement of the surface of the earth from its normal resting position. Amplitude is generally measured in inches or mils.

AMUSEMENT ARCADE - A primarily indoor structure, open to the public, that contains coin-operated games, rides, shows, and similar entertainment facilities and devices (Including less than four (4) pool tables).

AMUSEMENT PARK - A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

ANIMAL UNIT ("AU") - A unit of measurement to compare various animal types based upon equivalent waste generation. One animal unit equals the following: 1.0 beef feeder or slaughter animal; 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; 15 swine under 55 pounds; 10 sheep; 30 laying hens; 55 turkeys; 100 broiler chickens or an equivalent animal unit. The total animal units located on a given parcel or Animal Operation shall be determined by adding the Animal Units for each animal type. (Sources: 40 C.F.R. 122.23; 15A NCAC 2H.0217(a)(1)(A))

ANIMAL CLINIC - Facility for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for the temporary boarding of animals.

ANIMAL HOSPITAL - see Animal Clinic.

ANIMAL OPERATION - Any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the NCGS shall not be considered animal operations for purposes of this Ordinance. (Source: NCGS § 143- 215.10B)

ANIMAL REGULATIONS - See § 8.3 of this Ordinance.

ANIMAL SHELTER - A facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.

(Source: NCGS § 19A-23)

ANIMATION - The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having “chasing action” which is the action of a row of lights commonly used to create the appearance of motion.

ANIMAL WASTE - Livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation. (Source: NCGS § 143-215.10B) includes Liquid residuals resulting from an animal operation that are collected, treated, stored, or applied to the land through an animal waste management system. (Source: NCGS § 90A-47.1)

ANIMAL WASTE MANAGEMENT SYSTEM - A combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste. (Source: NCGS § 143-215.10B)

ANTENNA - Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

APARTMENT - A room or group of rooms, among similar sets in one building, designed for use as a dwelling. Apartments are considered multi-story buildings where three or more residences are contained in one structure.

APARTMENT HOUSE - Any Building or portion thereof used as a Multiple Dwelling for the purpose of providing three or more separate Dwelling Units which may share means of egress and other essential facilities. (Source: North Carolina State Building Code, Vol. 1, § 202)

APIARY - Bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found. (Source: NCGS § 106-635)

APPEAL - A request for a review of the Administrator's interpretation of any provisions of this Ordinance or a request for a determination that there is error in an order, requirement or decision made by the Administrator pursuant to this Ordinance.

APPLICANT - Any person, firm, partnership, joint venture, association, corporation, group or organization applying for an Application for Development Approval.

APPLICATION FOR DEVELOPMENT APPROVAL OR "APPLICATION" - A written request for any approval, permit, or action required by this Ordinance, including any written request for approval or issuance of a development order or development permit.

This includes such terms as "proposals" and "requests."

ARCADE/COLONNADE - A covered, open-air sidewalk attached to the building and is integral with the building frontage; columns or arches along the sidewalk support the overhead structure.

ARCHITECT - A person who is duly licensed to practice architecture by the North Carolina Board of Architecture. (Source: NCGS § 83A-1)

ARCHITECTURAL TRIM - The ornamental or protective framing or edging around openings or at corners or eaves and other architectural elements attached to the exterior walls of buildings, usually of a color and material different from that of the adjacent wall surface, and serving no structural purpose. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, BUILDING - The area included within surrounding exterior walls, or exterior walls and fire walls, exclusive of courts. The area of a building or portion of a building without surrounding walls shall be the usable area under the horizontal projection of the roof or floor above. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, GROSS FLOOR - The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, NET FLOOR - The area actually occupied or intended to be occupied even though at any given time a portion of such floor area may be unoccupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features. (See: North Carolina State Building Code, Vol. 1, § 202)

AREA OF SHALLOW FLOODING - A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD - See "Special Flood Hazard Area (SFHA)"

ARTICULATION - The detailing of a structure or building, i.e. brick patterning or ornamental work.

ARTISAN - See "Custom Manufacturing."

ASSISTED LIVING RESIDENCE - Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. "Assisted Living Residence" includes any nursing service exceptions authorized by the North Carolina Department of Human Resources on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of NCGS 131E-102. There are three types of assisted living residences: Adult Care Homes, Group Homes (for developmentally disabled adults), and Multi-Unit Assisted Housing with services. (Source: NCGS § 131D-2). Includes any "Assisted Living Residence" as defined by NCGS § 131D-2 or NCGS § 131D-20.

ATRIUM - A space, intended to occupancy within a building, extending vertically through the building and enclosed at the top. (Source: North Carolina State Building Code, Vol. 1, § 202)

AUCTION SALES ESTABLISHMENT - Any place where items are sold at auction to the highest bidder.

AUDITORIUM - A room, hall, or building, that is a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations. See also "Places of Public Assembly."

AUTHORIZED AGENT - Any person with valid authority provided by the Owner, as evidenced by a notarized document authorizing the Agent to represent the Owner, and acting on behalf of the Owner of land seeking a development order or development permit approval.

AUTOMOBILE GRAVEYARD - See "Junkyard."

AUTOMOBILE REPAIR, MAJOR - An establishment engaged in engine rebuilding or reconditioning of automobiles, the removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block, or oil pan, worn or damaged motor vehicles or trailers, including body, frame or fender straightening or repair, and/or the painting of vehicles.

AUTOMOBILE REPAIR, MINOR- An establishment engaged in the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles, including oil change, tire sales, and alignment, but not including any operation specified under "Automobile Repair, Major."

AUTOMOBILE SALES ESTABLISHMENT - An open area used for the display, sale or rental of new and/or used motor vehicles.

AUTO-ORIENTED-USE- Drive-through window facilities including those for automated tellers, cleaners, liquor stores, and restaurants; fuel sales; shopping centers; vehicle sales; auto mechanical repair; car wash; gasoline service station; and quick oil change centers.

AVIGATION EASEMENTS - A document acknowledging airport proximity, limiting the height of structures and granting permission for the conditions arising from the overflight of aircraft in connection with the operation of an airport.

AWNING - An architectural projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid or retractable skeleton structure over which an approved cover is attached. (Source: North Carolina State Building Code, Vol. 1, § 202)

BALCONY, ASSEMBLY ROOM - That portion of the seating space of an assembly room, the lowest part of which is raised 4 ft (1219 mm) or more above the level of the main floor. (Source: North Carolina State Building Code, Vol. 1, § 202)

BALCONY (EXTERIOR) - An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports. (Source: North Carolina State Building Code, Vol. VII, § 202).

BALLOON - A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

BANNER - A sign or outside advertising display having the character, letters, illustrations, ornamentations, symbol, color or visual representation applied to cloth, paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BANQUET HOME: A residentially zoned establishment operated for profit wherein the facilities are leased on a temporary basis for private wedding receptions, meetings, banquets, and other similar events. Such establishments shall not be open to the general public, shall not include overnight accommodations, and may include food preparation facilities and areas for dancing, dining and other entertainment activities customarily found in association with banquets or receptions.

BAR/TAVERN - An establishment where any malt beverage alcohol is consumed, food

and other beverages are optional, and entertainment may be provided. Excluded are adult establishments, athletic and sports facilities, conference centers, cultural facilities, hotels and motels and any use exempt in accordance with the Alcoholic Beverage Commission standards.

BASEMENT - That portion of a building which is partly or completely, or having a floor, below grade (see "Story above grade"). (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

BASE COURSE - The layer of material that lies immediately below the wearing surface of a street pavement.

BASE FLOOD - The flood having a one (1) percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

BASE STATION - A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

BEACON - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST INN - A business of not more than 12 guest rooms that offers bed and breakfast accommodations to at least nine but not more than 23 persons per night for a period of less than one week, and that:

1. Does not serve food or drink to the general public for pay;
 2. Serves only the breakfast meal, and that meal is served only to overnight guests of the business;
 3. Includes the price of breakfast in the room rate; and is the permanent residence of the owner or the manager of the business.
- (Source: NCGS § 130A-247). See § 8.3 of this Ordinance.

BERM - A mound of earth designed so that slope drainage is directed away from a paved area and sidewalks which serves as a screen or buffer yard with landscaping.

BEST MANAGEMENT PRACTICES (BMPs) - Methods, measures, practices, schedules of activities, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. With regard to construction these may include structural devices or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water. Economic, institutional and technical factors shall be considered in developing best management practices.

BICYCLE - A device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than sixteen (16) inches in diameter or having three wheels in contact with the ground any of which is more than sixteen (16) inches in diameter.

BICYCLE FACILITIES - A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, and bikeways, and shared roadways not specifically designated for bicycle use.

BICYCLE LANE (BIKE LANE) - A portion of a roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

BICYCLE PATH - A hard surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

BIG BOX RETAIL - see “Superstore”.

BLANK WALL - An exterior building wall with no openings and a single material and uniform texture on a single plane.

BLOCK- A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad right of way, shorelines of waterways, or boundary lines of municipalities.

BLOCK FRONTAGE - All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, water way (wider than thirty feet, 30'), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

BOARD- Unless otherwise indicated in the text, Board shall refer to the City of Concord Board of Adjustment.

BOARDING HOUSE OR ROOMING HOUSE - A building containing a single dwelling unit and three (3) or more rooms where lodging is provided, with or without meals, for compensation. "Compensation" may include money, services or other things of value.

BOARDING KENNEL - A facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats. (Source: NCGS § 19A-23)

BODY PIERCING - The intentional act of any person or persons of piercing any part of the body of another person or persons, other than the ears, for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body.

BORROW PIT - An area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance and/or other purposes. (Source: The Mining Act of 1971, NCGS § 74-49)

BREWERY-MICRO - An establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than 15,000 barrels (a barrel is approximately 31 gallons) of beer per year. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer. The establishment may include uses permitted in the district, in accordance with state and local laws.

BREW PUB - An establishment where beer and malt beverages are made on the premises in conjunction with a restaurant. Where allowed by law, brewpubs may sell beer "to go" and /or distribute to offsite accounts. The establishment may include uses permitted in the district, in accordance with state and local laws.

BREWERY-LARGE - An establishment where beer and malt beverages are made on the premises at an annual beer production rate of over 15,000 barrels of beer per year. The establishment may include uses permitted in the district, in accordance with state and local laws.

BREWERY-TAP ROOM - A room that is ancillary to the production of beer at a microbrewery, brewpub, or large brewery where the public can purchase and/or consume beer on site. The establishment may include uses permitted in the district,

in accordance with state and local laws.

BROWNSTONE - A row house built of brownstone or sandstone; reddish brown in color.

BUBBLE PLAN - A graphic representation that does not depict the exact location of proposed structures or infrastructure, but depicts the general extent and nature of the proposed development. Nature of development should be generally understood to mean uses, scale, and intensity, but may also include design elements and other anticipated features.

BUFFERYARD - A strip of land established to protect one type of land use from another land use or to provide screening. Normally, a bufferyard is landscaped and developed in open space areas. See Article 11 of this Ordinance.

BUFFER, EXTERNAL- A Bufferyard along the exterior boundaries of a development which is maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

BUILDABLE AREA - The portion of a lot which is within the envelope formed by the required yards. See "Yard, Required."

BUILDING - Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

BUILDING AREA - The total areas taken on a horizontal plane at the mean grade level of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces, steps, roof overhangs, and balconies.

BUILDING ENVELOPE - The three-dimensional space occupied by a building, including all eaves, covered porches, breezeways and other portions of the building, but excluding attached decorative walls which are less than or equal to three feet in height.

BUILDING FAÇADE - That exterior side of a building which faces, and is most nearly parallel to, a public or private street. The Façade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

BUILDING FRONT - The linear length of building facing a street right-of-way or in the case of a planned unit development, a legal private access road.

BUILDING HEIGHT - A vertical distance from the highest point of a building to grade, measured in accordance with § 7.6.2.D of this Ordinance.

BUILDING LINE - A line as determined by meeting the respective front, side and rear yard setbacks or in the case of irregular shaped lots with less than the minimum lot frontage (such as cul-de-sac lots), the building line shall be established at the point of minimum lot width. The Building Line shall be measured with a line perpendicular to the street or property line in front of which no structure may be erected.

BUILDING, LIVE-WORK - A townhouse with the first story available as a commercial space, either independently leased or in conjunction with the residential unit above. The rear alley or parking lot accommodates the additional parking requirement.

BUILDING, MAIN OR PRINCIPAL - A building, or buildings, in which the dominant use of the lot on which it is situated is conducted. In any Residential Zoning District, any dwelling other than an Accessory Building shall be deemed to be the main building of the lot on which it is situated.

BUILDING, MIXED USE - A vertically integrated mixed-use building. The building is able to accommodate a wide variety of uses, including apartments for sale or rent, small professional offices, ground floor retail or restaurant.

BUILDING PERMIT - An authorization to construct a structure as issued by the Cabarrus County Building Inspections Department.

BUILDING, TEMPORARY - A structure designed, built, created or occupied for short and/or intermittent periods of time, including tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for residential business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purpose of this definition, "roof" shall include an awning or other similar covering whether or not it is permanent in nature.

BUILDING WALL OFFSET - For purposes of this ordinance, a building wall offset shall be defined as a change in the wall plane of a façade to the minimum described herein.

BUILDING WALL PROJECTION/RECESS - For purposes of this ordinance, a building wall projection or recess shall be defined as a change in the wall plane projection, a minimum of 12" in width. Downspouts shall not be considered projections.

BUILT-UPON AREA - That portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.) (Source:15A NCAC 2H.1002).

BULK - The size and shape of buildings, structures, and non-building uses; and the

physical relationship of their exterior walls or construction or their location to lot lines and other buildings or structures or other walls or construction of the same building or structure; and all open spaces required in connection with a building or structure. Bulk regulations include regulations dealing with lot area, lot area per dwelling unit, lot frontage, lot width, building height, required yards, courts, usable open space, the ratio of aggregate gross floor area to the area of the lot, spacing between buildings on a single lot, and the length of buildings in a row.

BUSINESS OR BUILDING IDENTIFICATION SIGN - A pedestrian oriented sign attached to a building, which bears only the name, number(s) and/or logo of the building and/or the tenant.

CALIPER - A standard trunk diameter measurement for trees taken six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes. (See Article 11 of this Ordinance.)

CAMP, THERAPEUTIC - A residential treatment facility provided in a camping environment which is designed to assist individuals to develop behavioral control, coping skills, self-esteem, and interpersonal skills. (Source: 10 NCAC 14V.5201, 10 NCAC 44E.0002).

CAMPGROUND- A plot, parcel, or tract of land upon which two (2) or more Campsites are located, established, or maintained for occupancy by Camping Units as temporary living quarters for recreation, education, or vacation purposes. A Campground includes any Summer Camp or any other land area which is consistent with this definition. A Therapeutic Camp is not considered a "Campground." See § 8.3 of this Ordinance.

CAMPING UNIT - Any tent, trailer, cabin, lean-to, Recreational Vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

CAMPSITE - Any plot, parcel, or tract, or portion thereof, intended for exclusive occupancy by a Camping Unit.

CANOPY - A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies. (See Sign Regulations).

CANOPY SIGN - A sign that is suspended from, attached to, supported from, applied to, or constructed as part of a canopy or awning.

CAPACITY - The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

CAPITAL IMPROVEMENT - A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the City, a special district, or a private service provider.

CAPITAL IMPROVEMENT, PLANNED - A Capital Improvement designed for construction within a period not to exceed six (6) years in a Capital Improvements Program.

CAPITAL IMPROVEMENTS PROGRAM - A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years. "Capital improvements program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

CAR DEALERSHIP - See "Automobile Sales Establishment."

CARNIVAL - See "Outdoor Event, Temporary."

CARPORT - A roofed structure which may be attached or unattached to the principal structure providing space for the storage of one or more motor vehicles and enclosed on not more than three (3) sides by walls.

CAR WASH - An establishment that provides washing and cleaning of passenger or recreational vehicles by hand, by use of automated equipment operated by one (1) or more attendants, or by self-service facilities.

CARRIAGE HOUSE - See "Accessory Dwelling."

CARRY-OUT FOOD SERVICE - A business whose principal purpose is the preparation and sale of food or beverages for consumption off-site, such as delicatessens, ice cream stores and hot dog stands, but shall not include liquor stores, restaurants, and drive-through commercial establishments.

CELLAR - That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling.

CEMETERY - Any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes:

1. A burial park, for earth interment.

2. A mausoleum.
3. A columbarium. (Source: NCGS § 65-48. See § 8.3)

CEMETERY, LICENSED- Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under State law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State. See § 8.3 of this Ordinance.

CEMETERY, UNLICENSED - Land and facilities used for the burial of the dead, including municipal, private family, farm, church or animal cemeteries, which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law. See § 8.3 of this Ordinance.

CENTERLINE - The true centerline of a street right-of-way that has been fully dedicated to the required width.

CENTERLINE OFFSET OF ADJACENT INTERSECTIONS- The gap between the centerline of streets adjoining a common road from opposite or same sides.

CENTRAL WATER SYSTEM - See public Water System.

CERTIFICATE OF COMPLIANCE - The certificate issued by the Administrator, indicating that the use or occupancy of, or the connection or provision of utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure is in compliance with all regulation of this Concord Development Ordinance.

CERTIFICATE OF OCCUPANCY - The certificate issued by the North Carolina Department of Buildings, indicating that all required building and service systems shall have been inspected for compliance with the Building Code and other applicable laws and ordinances and that the Building, or portion of the Building, may be occupied or used.

CERTIFICATE OF STORMWATER COMPLIANCE - The approval for activities that meet the requirements for coverage under a stormwater general permit for development activities regulated by the Stormwater Management provisions of the North Carolina Administrative Code. (Source: 15A NCAC 2H.1002).

CERTIFY - A certification by an agency or official, pursuant to this Ordinance, of the existence of some fact or circumstance, whether made in oral or written form, which provides reasonable assurance of the accuracy of the certification.

CHANGEABLE COPY SIGN - A sign on which message copy is changed manually in the field through attachment of letters, numbers, symbols and other similar characters of changeable pictorial panels. Also known as a reader-board sign.

CHANGE IN USE - A change from one principal use of a building or land to another principal use of the building or land whether or not there is an increase in the size of the existing building or extent of the use of the land.

CHANNEL - A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

CHEMICAL STORAGE FACILITY - A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHILD CARE - A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

1. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
2. Recreational programs operated for less than four consecutive months in a year;
3. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
4. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
5. Public schools;
6. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
7. Bible schools conducted during vacation periods;
8. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;

9. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
10. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.
(Source: NCGS § 110-86).

CHILD CARE CENTER - An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving Child Care. Includes family child care homes and any other child care arrangement not excluded by NCGS § 110-86(2), that provides Child Care, regardless of the time of day, wherever operated, and whether or not operated for profit. (Source: NCGS § 110-86. See § 8.3).

CHILD CARE HOME, FAMILY - A child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. (Source: NCGS § 110-86).

CHILDREN'S CAMP - A residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting. (Source: NCGS § 131D-10.2)

CHURCH - See "Religious Institutions."

CITY COUNCIL- City Council of Concord, North Carolina.

CITY RIGHT-OF-WAY - A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.

CITY UTILITY POLE - A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.

CLEANING OR PROCESSING ESTABLISHMENT- A business that primarily involves the on-site cleaning, treatment, or chemical processing of goods or materials, or the storage of chemicals, used in off-site cleaning, treatment, or processing. This includes, but is not limited to, carpet cleaners, dry-cleaning plants, exterminating services, and taxidermists. This term does not include Dry Cleaning, and Laundry establishments.

CLINIC OR HEALTH CARE FACILITY - A building containing an association or group of physicians, dentists, clinical psychologists, and similar professional health care practitioners, including allied professional assistants who are assembled for the purpose of carrying on their professions. The health care facility may include apothecary, dental and medical laboratories, tissue labs, and/or X-ray facilities, but shall not include inpatient care or operating rooms for major surgery.

COLLECTOR STREET - Streets accessing neighborhoods and routes serving intra-city rather than intra-state travel. A minor amount of through traffic may be carried by a collector street, but the system primarily carries local traffic. Average trip lengths and travel speeds are less than for arterial routes. A collector street includes any street classified as a Major Collector or Minor Collector pursuant to Article 10 of this ordinance.

COLLEGE OR UNIVERSITY - An institution providing full-time or part-time education beyond the high school level, including any lodging rooms or housing for students or faculty.

COLLOCATION - The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, or other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, city utility poles, or wireless support structures.

COMBINED DEVELOPMENT - Two or more establishments or businesses occupying a common building or adjoining buildings which are designed and developed in a coordinated manner and which share parking, driveways and other common facilities.

COMMERCIAL AMUSEMENT, INDOOR- An establishment offering sports, game playing or similar amusements to the public, including, but not limited to: skating rinks, bowling alleys, billiards, ping pong, mechanical or electronic games, but not gambling or card playing, within a fully enclosed structure. Indoor commercial amusement does not include non-commercial or charitable events.

COMMERCIAL AMUSEMENT, OUTDOOR - An establishment that offers games, rides, or other similar activities on a commercial basis in a fixed location, including but not limited to: miniature golf, amusement parks, water slides, amphitheatres, stadia, tracks, and drive-in theaters.

COMMERCIAL MESSAGE - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMERCIAL PARKING LOT - See "Parking Lot."

COMMERCIAL PARKING STRUCTURE - See "Parking Structure."

COMMERCIAL STABLE - See "Stable, Commercial."

COMMERCIAL VEHICLE - See "Vehicle, Commercial."

COMMISSION - Unless otherwise indicated in the text, Commission shall refer to the City of Concord Planning and Zoning Commission.

COMMON OWNERSHIP - Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

COMMUNICATIONS FACILITY - The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

COMMUNICATIONS SERVICE - Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

COMMUNICATIONS SERVICE PROVIDER - A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider

COMMUNITY PARK - A community park as defined in the Cabarrus County Parks and Recreation Master Plan, at 4-2 and 4-5.

COMMUNITY WATER SYSTEM - See definition of "Public Water System."

COMPREHENSIVE PLAN - A comprehensive plan for development of the City, or any County-wide Comprehensive Plan adopted by the City, pursuant to NCGS §§ 160D-604 et seq., and including any part of such plan separately adopted and any amendment to such plan, or parts thereof. Unless and until a formal Comprehensive Plan is adopted for the City, any applicable Area Plan and/or the Official Zoning Map and the text of this Ordinance shall be considered the Comprehensive Plan.

CONCEPT PLAN - A generalized plan indicating the boundaries of a tract or tracts under common ownership, and identifying proposed land use, land use intensity and thoroughfare alignment.

CONDOMINIUM (CONDO)- A multiple unit complex in which the units are individual owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell, mortgage, etc. that unit and sharing joint ownership of any common grounds, passageways, etc.

CONFERENCE AND BANQUET FACILITIES - See "Places of Public Assembly, Indoors."

CONFORMING USE - A use that is permitted within the applicable zoning district (see Use Matrix in Table 8.1.8).

CONGREGATE CARE/CONGREGATE LIVING FACILITIES - Congregate Care Facilities (also called Congregate Living Facilities) are service-oriented housing complexes for older people who want security and some assistance, but would like to retain as much independence as possible. The residents may live in private suite apartments, studio apartments, or rooms. Meals are usually served in a central dining facility, and other services offered may include housekeeping, linen/laundry service, transportation, recreation, and possibly some personal care.

CONNECTIVITY INDEX - The index of the connectivity of a street system prescribed by the Street Improvement Standards of Article 10.

CONSENT AGREEMENT - A regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in the Concord Development Ordinance and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes, which document contains an integrated development scheme for a particular phase or phases of development approval, and contains maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Ordinance.

CONSERVE AND CONSERVATION - To use, and the use of, all methods and procedures for the purposes of increasing the number of individuals of resident species of plants up to adequate levels to assure their continuity in their ecosystems. These methods and procedures include all activities associated with scientific resource conservation such as research, census, law enforcement, habitat protection, acquisition and maintenance, propagation, and transplantation into unoccupied parts of historic range. With respect to endangered and threatened species, the terms mean to use, and the use of, methods and procedures to bring any endangered or threatened species to the point at which the measures provided for the species are no longer

necessary. (Source: NCGS § 106-202.12)

CONSERVATION EASEMENT - A non-possessory interest of a holder in real property imposing limitations or affirmative obligations for conservation purposes or to preserve the historical, architectural, archaeological or cultural aspects of real property.

CONSTRUCTION PLAN - The maps or drawings accompanying a subdivision plat showing the specific location and design of improvements to be installed in the subdivision as a condition of the approval of the plat.

CONTIGUOUS - Bordering or adjoining, meeting or joining at the border or surface.

CONTROLLED-ACCESS FACILITY - A State highway, or section of State highway, especially designed for through traffic, and over, from or to which highway owners or occupants of abutting property, or others, shall have only a controlled right or easement of access. (Source: NCGS § 136- 89.49)

CONVENIENCE STORE- A store offering for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales. See § 8.3 of this Ordinance.

CONVENTIONAL OPTION DEVELOPMENT - Any application requesting approval of a development or use within a zoning district other than a PUD, TND or TOD district, and a Cluster development.

CONVEY - To transfer all or a part of a title or equitable interest in land; to lease or assign an interest in land; or to transfer any other land interest.

CONVEYANCE PLAT - A plat that may be used for the transfer of land qualifying as a minor subdivision. See Article 5.

CORNER LOT - See "Lot, Corner."

CORRAL - A pen or enclosure for confining animals.

CORRIDOR (building) - A passageway into which compartments or rooms open and which is enclosed by partitions, other than partial partitions, and/or walls and a ceiling or a floor/roof deck above. (Source: North Carolina State Building Code, Vol. 1, § 202)

CORRIDOR (road) - A street or roadway identified as a principal link or gateway within the community.

COUNTY - The County of Cabarrus, North Carolina. Where this Ordinance refers to any territory, land area or property within the "County", the term "County" shall include all incorporated and unincorporated areas within Cabarrus County, North Carolina. Where appropriate, the term shall also include any personnel or agent of Cabarrus County.

COURTYARD - A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building. (Source: North Carolina State Building Code, Vol. VII, § 202).

CO-WORKING SPACE: An establishment that involves individuals working independently or collaboratively in shared office space on a leased basis. The office space may include common or shared amenities such as Wi-Fi, meeting rooms, office equipment and kitchen facilities.

CRITICAL AREAS - Any lot, parcel or property, or portion thereof, located within the Floodplain Overlay District, the River/Stream Overlay District, or any Watershed Protection Overlay District.

CROSSWALK - A public right-of-way used primarily for pedestrians' travel through or across any portion of a block.

COUNTRY CLUB - A private club, including country clubs, that provides one (1) or more of the following: indoor and/or outdoor golf, tennis, or swimming facilities, indoor exercise or recreational rooms and equipment; and which may include a clubhouse with dining and banquet facilities; operated on a private membership basis and restricted to use by members and their guests.

CUL-DE-SAC - A short, dead-end street terminating in a vehicular turn-around area.

CURB FACE - The vertical or shaped portion of a curb, facing the roadway, and designed to direct storm waters.

CURB - A stone, concrete, or other improved boundary marking the edge of the roadway or paved area.

CURB OUTLET SYSTEM - Curb and gutter installed in connection with Stormwater Management, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

CUSTOM MANUFACTURING - An establishment primarily engaged in the on-site production of goods by hand manufacturing that involves only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts, and the incidental direct sale to customers of goods produced on the site. Typical custom manufacturing uses include ceramic studios and custom jewelry manufacturing.

CUT, LAND - Land surface which is shaped through the removal of soil, rock or other materials.

DAY CARE - See "Child Care."

DAYS - When used to establish time limits on various processes in this Ordinance, days shall mean business days.

DECISIONMAKER - The agency, official or entity authorized to render a final decision which approves, approves with conditions or denies an application for development approval.

DECLARATION - An instrument, duly recorded, by which the property is submitted to Chapter 47A of the North Carolina General Statutes, and such declaration as from time to time may be lawfully amended. (Source: Unit Ownership Act, NCGS § 47A-3); and any instruments, however denominated, which create a condominium, and any amendments to those instruments. (Source: North Carolina Condominium Act, NCGS § 47C-1-103)

DEDICATION - A gift, by the owner, of his property to another party without any consideration being given for the transfer. The dedication is made by written instrument and is completed with an acceptance.

DE NOVO HEARING - A new hearing. In a de novo hearing, the reviewing agency considers the application as if it originated before it, but may consider the findings of fact, conclusions of law, or recommendations of the agency which previously considered the case.

DENSITY - The total number of dwelling units per acre, computed in accordance with Article 7 of this Ordinance.

DENSITY BONUS - Dwelling units or non-residential square footage permitted in addition to the permitted density or intensity within a zoning district, computed in accordance with Article 7 of this Ordinance.

DENSITY, NET - The number of dwelling units divided by the net acreage remaining after subtracting all critical areas and streets.

DEPARTMENT- Unless otherwise noted in the text, Department shall refer to the City of Concord Planning and Community Development Department.

DEVELOPER - A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property (Source NCGS § 160D-102)

DEVELOPMENT - Unless the context clearly indicates otherwise, the term means:

1. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
2. excavation, grading, filling, clearing, or alteration of land;
3. the subdivision of land as defined in G.S. 160D-802; or
4. the initiation or substantial change in the use of land or the intensity of use of land.

This definition does not alter the scope of regulatory authority granted by the Articles of this Chapter. (Source NCGS § 160D-102)

DEVELOPMENT ACTIVITY - Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DEVELOPMENT ORDER - Any action granting, denying or granting with conditions, an application for a development permit.

DEVELOPMENT PARCEL - Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

DEVELOPMENT PERMIT - Any zoning clearance; building permit; home occupation permit; sign permit; temporary use permit; certificate of occupancy; conditional use permit; preliminary subdivision plat; final subdivision plat or other plat approval; preliminary site plan; final site plan; rezoning (change of zone); Comprehensive Plan amendment; specific plan; or any other official action of the City or any other state or local government commission, board, agency, department or official having the effect of permitting development of land located within the geographic area subject to the provisions of this Ordinance.

DEVELOPMENT RIGHT- The potential for the improvement of a parcel of real property,

measured in dwelling units for residential uses or equivalent dwelling units for non-residential uses, which exists because of the zoning classification of the parcel.

DEVELOPMENT SERVICES DEPARTMENT - The Cabarrus County Development Services Department.

DIAGNOSTIC CENTER - A freestanding facility, program, or provider, including but not limited to, physicians' offices, clinical laboratories, radiology centers, and mobile diagnostic programs.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

DIMENSIONAL REGULATIONS - See Article 7 of this Ordinance.

DISPOSAL - As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

DISPOSITION - A transfer of all or part of a title or equitable interest in land; a lease or an assignment of an interest in land; or any other transfer or conveyance of an interest in land.

DISTILLERY - An establishment engaged in the production and distribution of spirituous beverages. The establishment may include uses permitted in the district, in accordance with state and local laws.

DORMITORY - A space in a building where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

DRAGSTRIP- A dragstrip is a straight, purpose-built racetrack, typically an eighth or a quarter mile long, for the exclusive purpose of two (2) motorized vehicles racing against one another for paid admission by the public, with an additional shutdown area to allow vehicles time to stop after crossing the finish line and which could include necessary accessory structures for parking, garages, staging, concessions,

control and seating.

DRAINAGE AREA OR WATERSHED - The entire area contributing surface runoff to a single point. (Source: 15A NCAC 2H.1002).

DRIVE-THROUGH COMMERCIAL ESTABLISHMENT - A commercial retail or personal service establishment designed or intended to enable a customer in a motor vehicle parked on or moving through the premises to transact business with a person outside the motor vehicle. Such establishments include, but are not necessarily limited to branch banks and fast-food restaurants.

DRIVEWAY - A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

DUPLEX - A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. A duplex may include: (1) a semidetached dwelling, which is a building containing two dwelling units attached horizontally (see illustration), or (2) a building with two units attached vertically, with one dwelling unit located on top of the other.

DUST-FREE- A land surface that is paved in one of the following methods: (1) asphaltic concrete, (2) cement concrete, (3) penetration treatment of bituminous material and a seal coat of bituminous binder and a mineral aggregate or (4) the equivalent of the above.

DWELLING Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of Article 12 it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for seasonal vacation purpose. (Source NCGS § 160D-102)

DWELLING, ATTACHED - A building containing two (2) or more residential units, attached along and sharing one (1) or more common walls between any two (2) units, or stacked one (1) above the other, or attached to a non-residential use. An Attached Dwelling includes any residential unit above a non-residential use, Duplex, Triplex, Quadruplex, Townhouse or Rowhouse.

DWELLING, MIXED USE - Dwellings located above the ground floor of an institutional, civic, office, commercial or retail use. Mixed Use Buildings are a common feature of traditional town centers where shop owners lived above ground-floor businesses, and are sometimes referred to as “Live-Work Units.” Where a Mixed Use Dwelling is permitted by this Ordinance within a particular district, the ground-floor retail uses are also permitted.

DWELLING, MULTI-FAMILY- A building or portion thereof designed for or occupied as five (5) or more dwelling units.

DWELLING, SINGLE-FAMILY - A building designed for occupancy by one (1) family.

DWELLING, SINGLE-FAMILY DETACHED - A Single-Family Dwelling Unit that is not attached to any other Dwelling Unit by any means and is surrounded by yards.

DWELLING UNIT - A dwelling unit is a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

EASEMENT - A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for a specific purpose.

EASEMENT, NON-ACCESS - An easement prohibiting vehicular access from a public street.

EFFECTIVE DATE OF THIS ORDINANCE - The effective date of this Ordinance determined in accordance with Article 1 of this Ordinance.

ELECTRIC GENERATING FACILITY - Any plant facilities and equipment for the purposes of producing, generating, transmitting, delivering or furnishing electricity for the production of power. (Source: NCGS § 75A-2)

ELECTRONIC MESSAGE BOARD - Are also known as “dynamic” signs. Any sign which displays messages, in alternating light cycles, using any technology, including but not limited to digital or analog technologies, and electronic changeable copy signs (i.e. a sign or portion thereof that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of LEDs, fiber optics, light bulbs or other illumination devices within the display area. Standards for Electronic Message Boards are referenced in Article 12. All Electronic Message Boards shall meet the minimum North Carolina Department of Transportation requirements for lighting and message duration contained in NC Administrative Code 2E.0203(3a-c & 4a (i-iii)).

ELEMENTARY SCHOOL - A school which embraces a part or all of the eight elementary grades and which may have a kindergarten or other early childhood program. (Source: NCGS § 115C-75)

ELEVATED BUILDING - A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELIGIBLE FACILITIES REQUEST - A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

ENCLOSURE RATIO- (Note: this definition is used in § 9.4 TND District only) - The ratio of building height to spaces in front of the building. Buildings serve to spatially define streets. Proper spatial definition is achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width. The condition of alignment occurs when the facades of buildings cooperate to delineate the public space, as walls form a room. Building articulation must take place primarily in the vertical plane or facade. Appendages such as porches, balconies, and bay windows are encouraged to promote the visual transition. The condition of enclosure generated by the height-width ratio of the space is related to the physiology of the human eye. If the width of a public space is such that the cone of vision encompasses less street walls than the opening to the sky, then the degree of spatial enclosure is slight. Ratios not exceeding 1:4 are considered optimal, while a 1:6 height-to-width ratio is the absolute minimum required for appropriate urban spatial definition. See P. Craighead, ed., *The Hidden Design in Land Use Ordinances* (University of Southern Maine, 1991), at 45; R. Arendt, *Rural by Design* (American Planning Association, 1994), at 10-11. An appropriate average ratio is 1:3. As a general rule, the tighter the ratio, the stronger the sense of place. Spatial enclosure is particularly important for shopping streets, which must compete with malls which provide very effective spatial definition. In the absence of spatial definition by facades, disciplined tree planting is an alternative. Trees aligned for spatial enclosure are necessary along thoroughfares with substantial front yards. If Streetscape Landscaping is provided in accordance with the Landscaping Standards of this Ordinance, the Enclosure Ratio shall be measured from the height of the trees at maturity rather than the height of the buildings. For the internal streets or circulation systems of subdivision plats or site plans, the Enclosure Ratio shall be computed by dividing the height of the shortest facing structure by the spaces between the buildings. For development on individual tracts adjoining a public right-of-way and not under Common Ownership with tracts or parcels facing across the right-of-way, the Enclosure Ratio shall apply only to the tract or parcel subject to the Application for Development Approval. Example: A building (Building A) is 15 feet in height and faces a building (Building B) 24 feet in height across a street with a 40-foot right-of-way. Building A is located 15 feet and Building B is located 20 feet from the edge of the right-of-way, producing a building-to-building space of 75

feet. The enclosure ratio is 1:5 ($15 \div 75 = 1:5$). See first "Village Scale" example (illustration). Source: P. Craighead, ed., *The Hidden Design in Land Use Ordinances*. (University of Southern Maine, 1991).

ENCROACHMENT - The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

ENGINEER - An Engineer licensed by the State of North Carolina.

ENGINEER, CITY - The City of Concord Director of Engineering.

ENHANCEMENT - Improvement of the functions or an existing wetland system. Enhancement may include improved flood control capacity, increased groundwater recharge capability, increased density and diversity of native wildlife and vegetation, and improved aesthetic values (e.g., by removing non-native impediments, structures, impervious surfaces).

ENLARGEMENT OR "TO ENLARGE" - An increase in size or addition to the Floor Area of a Building or Structure, or an increase in the portion of a Building, Structure, or land area occupied by an existing Use.

ENTRANCE ROAD - A Street which: (1) leads into a Subdivision, Planned Unit Development, or a Traditional Neighborhood Development, and (2) intersects with a higher order Street.

EQUIPMENT - Rolling stock or movable personal property except that, for the purpose of this Ordinance, it shall not include those items defined as Heavy Equipment.

EQUIPMENT COMPOUND - An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

ERECT - To build, construct, attach, hang, place, suspend, affix and/or apply.

EROSION CONTROL - See Article 4 of this Ordinance.

EVIDENCE - Any map, table, chart, contract or other document or testimony prepared or certified that is offered by a person to establish a claim, condition or assertion.

EXCAVATION - The removal of soil, rock or other matter from a land area.

EXISTING BUILDING AND EXISTING STRUCTURE - any building and/or structure for

which the “start of construction” commenced before November 13, 1994.

EXISTING CAPACITY - The Capacity of the existing built and operational Public Facilities, as determined by the service provider.

EXISTING DEMAND - See "Public Facilities Standards" of this Ordinance.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

EXOTIC ANIMALS - See Other Animals.

EXOTIC SPECIES (PLANT) - A species or higher taxon of plant not native or naturalized in North Carolina but appearing in the Federal Endangered and Threatened Species List or in the appendices to the International Treaty on Endangered and Threatened Species. (Source: NCGS § 106-202.12)

EXTENDED STAY LODGING FACILITY - Any building containing six or more units intended or designed to be used, rented, or hired out to be occupied, or which are occupied for sleeping purposes for guests, and which units contain kitchen facilities for food preparation including, but not limited to, such facilities as refrigerators, stoves and ovens. Extended Stay Lodging Facilities may contain lobbies, conference rooms, meeting rooms, child play areas, and/or restaurants.

EXTRACTIVE USES - Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining but excludes individual water well drilling.

EVENT CENTER: All buildings and associated parking facilities and open spaces which are kept, used, maintained, advertised, leased out or otherwise made available to private groups and/or the general public and not repeated on a weekly basis, for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, weddings, ceremonies and the like.

FAÇADE - The entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation. See “Building Façade”.

FACSIMILE SIGN - A three-dimensional object, such as a chicken bucket, automobile (or automobile part); or a human figure, either of which may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located, designed and/or embellished in such a manner as to attract attention.

FALL ZONE - The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

FAMILY - An individual, or two or more persons related by blood, marriage or law, or a group of not more than any five persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two or persons related by blood, marriage or law, are a part of the family for this code. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

FAMILY CARE HOME - A care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons. (Source: NCGS § 168-21) No family care home shall be located within a one-half mile radius of an existing family care home. (Source: NCGS § 168-22)

FARM, BONAFIDE - A farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.

FARM BUILDINGS - Structures, other than residences and structures appurtenant thereto, for on-farm use (barns, sheds, poultry houses, etc.). (Source: North Carolina State Building Code, Vol. 1, § 201.3)

FARM OPERATION - Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. (Source: NCGS § 133-7)

FARM RELATED BUSINESS - A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services.

FARMERS' MARKET - A structure or place where agricultural produce is brought for the purposes of retail sales. (Note: A farmers' market differs from a produce stand in that there may be more than one (1) seller per parcel of land and the structure from which produce is sold at a farmers' market need not be portable or capable of being dismantled or removed from the site.)

FEED LOT - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Ordinance. (Source: NCGS § 143-215.10B)

FENCE - A barrier of man-made construction, regardless of the material used, including walls but not retaining walls. ("material" does not include vegetation.)

FENCE, LIVING - A hedge of vegetation used as a screening device or a fence with vegetation growing to it or on it which at the time of maturity would prevent an "open" effect and would block the normal line of sight.

FENCE, OPEN - A fence constructed of material which does not interrupt the line of sight, such as split rail, pipe or chain-link fencing and shall not include a living fence.

FENCE SIGN - A sign mounted on, attached to, or constructed as part of a fence or similar structure.

FENESTRATION - The entryways and windows of a building.

FESTOON LIGHTING - A string of outdoor lights suspended between two or more points.

FILL - Deposit of soil, rock, or other material placed in an area which created an obstruction or increases surface elevation.

FINAL PLAT - A survey map of record which indicates the boundaries for streets, blocks, lots and other property divisions which is prepared pursuant to Article 5 of this Ordinance.

FINAL SITE PLAN OR FINAL PLAN - The map of a proposed development to be filed after approval by the decision-making authority and any accompanying material as

described in this Ordinance.

FINANCIAL INSTITUTION - Any trust company, savings bank, industrial bank, savings and loan association, building and loan association, commercial bank, credit union, federal association, investment company, or other business association, which is chartered under federal or State law, solicits, receives or accepts money or its equivalent on deposit and loans money as a regular business. (Source: NCGS § 116B-10)

FIRE FLOW SURVEY - A testing of fire hydrants to determine capacity by volume and pressure for firefighting purposes.

FIRE PROTECTION FACILITIES - Fire stations and major pieces of firefighting apparatus, including, but not limited to pumpers, quick response vehicles, hook and ladder trucks, and similar equipment, owned and operated by the City of Concord Fire Department or other duly authorized volunteer fire districts.

FLAG - Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity. Flags are regulated in accordance with the standards of Article 12 "Sign Regulations".

FLAG LOT - See "Lot, Flag."

FLEA MARKETS - A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products, or other items offered for sale outside an enclosed building. Flea markets shall not include any of the following activities which occur at the same location four or fewer days in any calendar year: garage sales, produce stands, or fund-raising activities done by a non-profit organization.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters; and/or
2. the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) - An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM) - An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

FLOOD INSURANCE - The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM) -An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

FLOOD INSURANCE STUDY (FIS) - An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOOD PRONE AREA- see “Floodplain”

FLOODPLAIN - Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR - The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT - Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT -The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-RESISTANT MATERIAL - Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY - The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FLOODWAY ENCROACHMENT ANALYSIS - An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

FLOOD ZONE - A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOOR AREA -The sum of the gross horizontal areas of the several stories of the building measured from the exterior faces of the exterior walls or from the center line of party walls. It shall exclude any basement floor, interior balconies and mezzanines, elevator shafts and stair wells and enclosed porches. The floor area of accessory uses and of accessory buildings on the same lot shall be included.

FLOOR AREA RATIO (FAR) - The ratio of the gross floor area of all structures on a parcel to the gross area of the parcel on which such structures are located.

FOOD TRUCK - A licensed, motorized vehicle or mobile food unit which is temporarily located on a privately-owned lot or parcel or within a designated parking space or spaces on public streets, for the purpose of selling food items to the general public.

FORESTLAND - Land that is a part of a forest unit that is actively engaged in the

commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit shall be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(3), and each tract must be under a sound management program.

FORTUNE TELLER - Telling fortunes by lines on the palm of the hand or fortunes told by a psychic (a person apparently sensitive to nonphysical forces) whose artistic expression is said to be a channel of communication between the earthly world and a world of spirits.

FREEBOARD - The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

FRONT - Any public street frontage, not including alleys.

FRONTAGE - The frontage of a parcel of land is that distance where a property line is common with a public or private street right-of-way, or a recorded access easement. See Article 5 for provisions regarding access easements.

FRONTAGE, DOUBLE - A lot which extends from one street frontage to another street.

FRONTAGE, FULL - Frontage which meets the requirements of Article 5 of this Ordinance.

FRONTAGE ROAD - A way, road or street which is auxiliary to and located on the side of another highway, road or street for service to abutting property and adjacent areas and for the control of access to such other highway, road or street. (Source: NCGS § 136-89.49)

FRONT SETBACK - The minimum horizontal distance between any Building or Structure and the Front Lot Line.

FULLY SHIELDED - "Fully shielded" means that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted, as certified by photometric test report.

FUNCTIONALLY DEPENDENT FACILITY - A facility which cannot be used for its intended

purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

FUNERAL HOME - An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals.

GABLE- The triangle formed by a sloping roof. A building may be front-gabled or side-gabled. Porches and dormers may also be gabled

GARAGE, PRIVATE - An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles of occupants in the building to which such garage is accessory, but not including the parking or temporary storage of delivery or truck motor vehicles having a capacity in excess of one (1) ton.

GASOLINE PUMP SIGNS - Signs attached to gasoline and motor vehicle fuel pumps, which display material incidental to the operation of the pumps, such as price, fuel type and self-service instructions.

GAS STATION - Buildings and/or surfaced area where motor vehicles may be refueled and/or serviced.

GRADE - A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 feet (1829 millimeters) from the building, whichever is closer to the building. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202). The term "grade" also includes a reference plan representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 ft. (1829 mm) from the building, whichever is closer to the building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

GRADE, FINISHED - The level of the soil after completion of site development.

GRADE, NATURAL - The undisturbed ground level which may be determined by on-site evidence (vegetation, ground level on adjacent land, elevation of adjacent streets and roads, soil types and locations, etc.)

GREENBELT - Greenbelts run along the perimeter of a subdivision, Planned Unit Development, or TND, and serve to (1) buffer a neighborhood from surrounding incompatible uses such as a highway corridor or industrial district, and/or (2) provide an edge for the neighborhood. Greenbelts differ from the other types of open spaces in that the natural vegetation and wildlife is undisturbed, or the area is actively cultivated for crops or the raising of Livestock (excluding Concentrated Animal Feeding Operations).

GREENFIELD DEVELOPMENT - Development on undeveloped parcels, undeveloped parcels not surrounded by existing development, or on large parcels surrounding partially developed areas or undeveloped areas.

GREENHOUSE - An enclosed detached accessory structure consisting primarily of light-transmitting materials and used exclusively for growing plants. (Source: North Carolina State Building Code, Vol. VII, § 202).

GREENWAY - A linear area maintained as open space in order to conserve natural and/or cultural resources, and to provide recreational opportunities, aesthetic and design benefits, and linkages between open space and recreational facilities and between these facilities and their users.

GREYFIELD - Old, obsolete, or abandoned retail and commercial sites, namely strip malls containing large parking lots. These sites are often underutilized and are candidates for infill re-development opportunities.

GROSS AREA OR GROSS ACREAGE - The area of a lot or parcel, including all proposed or dedicated streets, alleys, private accessways, roadway and/or alley easements. Such boundaries shall extend to the center line of an existing abutting street or alley right-of-way. In the case of an existing partial dedication or easement, the gross area shall not extend beyond what would be the centerline of the full dedication.

GROSS LEASABLE AREA (GLA) - The total building area, expressed in square feet and designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, as measured from exterior walls or the centerline of walls separating two abutting buildings, but excluding any space where floor-to-ceiling height is less than six feet and six inches (6'6").

GROUND SIGN - A free-standing sign with its base or its supports mounted directly to the ground.

GROUND SUBSIDENCE - A process characterized by the downward displacement of surface material caused by phenomena such as removal of underground fluids,

natural consolidation, or dissolution of underground minerals or by manmade phenomena such as underground mining.

GROUND WATER - Subsurface water within and below the zone of continuous saturation.

GROUP RESIDENTIAL DEVELOPMENT - A development where more than one principal residential building is permitted on a lot or any development where there are three (3) or more dwelling units in a building. A "Group Residential Development includes any (1) Apartment House/Multiple Dwelling, Quadruplex, Triplex, or Townhouse; and any Attached Dwelling (Duplex). or (2) any Mixed Use Dwelling.

GUEST - Any transient person who rents or occupies a room for sleeping purposes.

GUTTER - A shallow channel, usually set along a curb or the pavement edge of a road or the edge of a building roof, for purposes of catching and carrying off water.

HABITABLE ROOM - Any room meeting the requirements of the North Carolina One- and Two-Family Dwelling Code for sleeping, living, cooking or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces. (Source: North Carolina State Building Code, Vol. VII, § 202).

HAZARDOUS WASTE DISPOSAL FACILITY - Any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under NCGS Chapter 130A, Article 9 and/or NCAC Title 15A, Chapter 13, Subchapter 13A. (Source: NCGS § 130A-290). See § 5.11 of this Ordinance.

HAZARDOUS WASTE FACILITY- A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste (Source: NCGS § 130A-290). See § 8.3 of this Ordinance.

HAZARDOUS WASTE MANAGEMENT FACILITY - As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HAZARD PRONE AREA - An area which has not yet been designated by the State or federal government as a geological hazard area but where historical evidence, climatological data, surface or subsurface geological, topographical, vegetative, or other on-site naturally-occurring factors indicate a relatively greater risk of property damage than exists on other parcels in the County.

HEALTH CARE PROVIDER - Without limitation any person who pursuant to the provisions of NCGS Chapter 90 is licensed, or is otherwise registered or certified to engage in

the practice of or otherwise performs duties associated with any of the following: medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, psychology; or a hospital or a nursing home; or any other person who is legally responsible for the negligence of such person, hospital or nursing home; or any other person acting at the direction or under the supervision of any of the foregoing persons, hospital, or nursing home. (Source: NCGS § 90-21.11)

HEALTH SERVICE FACILITY - A hospital; psychiatric facility; rehabilitation facility; long term care facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; oncology treatment center; hospice, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility. (Source: NCGS § 131E-176)

HEALTH CLUB - An establishment that provides facilities for exercise activities, such as running, jogging, aerobics, weight lifting, court sports and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

HEAVY EQUIPMENT - Large equipment including, but not limited to: trucks with greater than a one and one-half ton rating, cranes, crawler-type tractors, earth movers, dump trucks and other equipment of equal or greater size and weight.

HEIGHT -The vertical distance from the grade to the highest point of any portion of a structure, measured as set forth in § 7.6.2 D. of this Ordinance.

HEIGHT, BUILDING - The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories includes basements, except as specifically provided for in § 503.2.4 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 202)

HEIGHT, STORY - The vertical distance from top to top of two successive finished floor surfaces. (Source: North Carolina State Building Code, Vol. 1, § 202)

HEIGHT, WALL - The vertical distance to the top measured from the foundation wall, or from a girder or other intermediate support of such wall. (Source: North Carolina State Building Code, Vol. 1, § 202)

HELIPAD - A facility without the logistical support provided by a heliport (see Heliport definition) where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling or storage of helicopters.

HELIPORT- An area providing for the take-off and landing of helicopters and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance, and repair of helicopters.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

HIGH QUALITY WATERS - See Sedimentation Control Standards.

HIGH QUALITY WATER ZONES - See Sedimentation Control Standards.

HIGH SCHOOL - A school which embraces a high school department above the elementary grades and which offers at least the minimum high school course of study prescribed by the State Board of Education. (Source: NCGS § 115C-75)

HIGHWAY - A general term denoting a public way for purposes of vehicular travel including the entire area within the right-of-way.

HILLSIDE DISTURBANCE - Any and all areas of the building site disturbed during construction by grading or excavation and temporary or permanent construction for all buildings, parking areas, driveways, roads, sidewalks, and other areas of concrete, asphalt, or other construction materials.

HILL CREST - The highest point on a hill or slope as measured contiguously throughout the property. Any given property may have more than one hill crest.

HISTORIC BUILDING -Any building 50 years old or more with distinctive architectural features characteristic of the period of history during which it was originally constructed.

HISTORIC SIGN - A sign 49 years old or older, which currently exists or formally existed in the City of Concord.

HISTORIC STRUCTURE -Any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
4. certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

HOLIDAY DECORATIONS - Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent in nature, and which contain no advertising material or commercial message.

HOME OCCUPATION - Any occupation or profession or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing therein, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character thereof, and contains no mechanical equipment except for that which is customarily used for domestic, hobby, or household purposes. A home occupation is an accessory use to a dwelling unit. See § 8.4 and 8.5 of this Ordinance.

HOME OWNERS ASSOCIATION - An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants for maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, property or any other interest, is automatically a member as a condition of ownership, and each such member is subject to charge or assessment for a pro-rated share of expenses of the association which may become a lien against the lot, property or other interest of the member.

HORSE - Any animal of the genus Equus.

HORTICULTURAL LAND - Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(2), and each tract must be under a sound management program. (Source: NCGS § 105-277.2).

HOSPICE - Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement. (Source: NCGS § 131E-176, 131E-201)

HOSPICE INPATIENT FACILITY - A freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in an inpatient setting. For purposes of this Article only, a hospital which has a contractual agreement with a licensed hospice to provide inpatient services to a hospice patient as defined in G.S. 131E-201(4) and provides those services in a licensed acute care bed is not a hospice inpatient facility and is not subject to the requirements in G.S. 131E-176(5)(ii) for hospice inpatient beds. (Source: NCGS § 131E-176, 131E-201)

HOSPICE RESIDENTIAL CARE FACILITY - A freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting. (Source: NCGS § 131E-176)

HOSPITAL - A hospital licensed, accredited or approved under the laws of any state and a hospital operated by the United States government, a state or its subdivision, although not required to be licensed under state laws. (Source: NCGS § 130A-403) The term "hospital" also includes a public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term also includes all facilities licensed pursuant to G.S. 131E-77 of the General Statutes. (Source: NCGS § 131E-176)

HOTEL - Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

HOUSEHOLD PETS - Those animals which are commonly kept as pets: dogs, cats, fish, small birds (e.g. parakeets, parrots), rodents (e.g. mice, rats), and reptiles (non-poisonous snakes, lizards).

HUD CODE - The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 et seq., as amended) and the regulations promulgated by the United States Department of Housing and Urban Development thereto (24 C.F.R. part 3282), commonly known as the "HUD Code".

HYDROLOGY - The science of dealing with the properties, distribution, and circulation of water.

HYDROPERIOD - The period during which a soil area is saturated.

ILLUMINATION, BACK-LIGHTED - Illumination provided from a source located outside and behind the sign to provide a glowing/shadow appearance.

ILLUMINATION, INDIRECT - Illumination, which reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

ILLUMINATION, INTERNAL - Illumination provided from a source located inside or with the face of the sign.

IMPACT AREA - See Adequate Public Facilities of this Ordinance.

IMPERVIOUS SURFACE - Includes all buildings or structures measured at their greatest extent and so as to include areas overhung by eaves, balconies, and other projecting features of the structure; also all paved or otherwise hard-surfaced areas such as buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), and similar hard-surfaced areas. Wooden slatted decks and the water area of a swimming pool are considered pervious. Source: 15A NCAC 2B.0202(13) (defining "built-upon area").

IMPROVED (as in related to a parking surface) - means surfaced with any pervious material or method but not including grass or dirt.

IMPROVED OPEN SPACE - Landscaped areas, turf areas, parks, golf course and recreation areas constructed on the parcel, but shall not include associated buildings.

IMPROVEMENTS - Right-of-way pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, re-vegetation, water mains, sanitary and storm sewers, drainways, gas lines, electrical and telephone lines and appurtenances, street signs, trees and lights, lot pin monuments, range point boxes, and any other similar items required for compliance with the regulations of this Ordinance or the conditions of approval.

IN KIND - For mitigation purposes, "in kind" means the restoration, replacement, or creation of a wetland or river stream system which provides functions, attributes, and characteristics closely approximating those of a specific wetland or river stream system that would be adversely affected by the proposed activities.

INDIVIDUAL ESTABLISHMENT OR BUSINESS - A single establishment or business occupying one or more buildings designed to function as a single enterprise which does not share off-street parking, driveways, or other common facilities with an adjacent establishment or development.

INDUSTRIAL OR COMMERCIAL TREATMENT PLANT SEPTAGE - Solid, semisolid or liquid residue generated during the treatment of sewage that contains any waste resulting from any process of industry, manufacture, trade, or business in a treatment works where the designed disposal is subsurface. Industrial or commercial treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Industrial or commercial treatment plant septage does not include ash generated during the firing of industrial or commercial treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. (Source: NCGS § 130A-290)

INDUSTRIAL PARK - A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible uses.

INDUSTRIAL PROCESS WASTEWATER - Any water-carried waste resulting from any process of industry, manufacture, trade, or business. (Source: NCGS § 130A-334)

INDUSTRIAL USES - Storage, processing, and shipping of agricultural or timber products; minerals extraction and production, storage, processing, shipping or conversion to energy; fabrication, assembly, servicing, manufacture, storage or warehousing of other products

INDUSTRIAL WASTE - Any liquid, solid, gaseous, or other waste substance or a combination thereof resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource. (Source: NCGS § 143-213)

INFLATABLE SIGNS - A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

INERT DEBRIS - Gravel, rocks, stumps, soil (not contaminated), unpainted and untreated materials such as bricks, concrete blocks and lumber.

INFILL - The development of new housing or other buildings on scattered vacant sites surrounded by developed areas.

INFILTRATION SYSTEMS - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

INTEGRAL UNITS - Items, equipment, or machinery which are assembled or constructed to function as a single unit, such as, but not limited to, large cranes, drilling rigs or other large vehicles, large diameter pipes or culverts, large scale motors or transformers, and the like.

INTENSITY - The number of square feet of development per acre by land use type with respect to non-residential land uses.

INTERIOR LOT - See "Lot, Interior."

INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED Facilities licensed pursuant to Article 2 of Chapter 122C of the North Carolina General Statutes for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for persons with mental retardation, autism, cerebral palsy, epilepsy or related conditions. (Source: NCGS § 131E-176)

INTERNET/ELECTRONIC GAMING- Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals, to conduct games including but not limited to those characterized as sweepstakes, product promotions, lotteries, games, games using skill or dexterity, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, and whether or not the outcome may be "pre-revealed." The term includes, but is not limited to enterprises identifying as internet sweepstakes, video sweepstakes, or cybercafés. This definition is intended to cover all business enterprises commonly or formally known as "sweepstakes" and shall apply regardless of any superficial changes to the system or method of electronic gaming or of any subterfuge or pretense on the part of the business owners or electronic gaming manufacturers. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina, or arcade games of skill. This definition is solely for the use of the City of Concord in regulating business entities in this jurisdiction and the City makes no determination of the legality of any such business under the North Carolina Criminal statutes, by the issuance of any type of permit or by the collection of business taxes.

JUNIOR HIGH SCHOOL - A school which embraces not more than the first year of high school with not more than the upper two elementary grades. (Source: NCGS § 115C-75)

JUNK - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. (Source: Junkyard Control Act, NCGS § 136-143).

JUNKYARD - An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of "junk" as defined by subdivision (3) of NCGS § 136-143 which had been derived or created as a result of industrial activity shall be deemed to be a junkyard within the meaning of this definition. The term "Junkyard" includes any "Automobile Graveyard." An "Automobile Graveyard is any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard" within the meaning of this definition. (Source: Junkyard Control Act, NCGS § 136-143). See § 8.3 of this Ordinance.

LAGOON - A confined body of water to hold animal byproducts including bodily waste from animals or a mixture of waste with feed, bedding, litter or other agricultural materials. (Source: NCGS § 106-802, Swine Farm Siting Act)

LAND CLEARING & INERT DEBRIS LANDFILL- A facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash. For purposes of this definition, "land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material. (Source: 15A NCAC § 13B.0101)

LAND DISTURBING ACTIVITY - Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. (Source: NCGS § 113A-52)

LANDFILL - A disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an

injection well, a hazardous waste long-term storage facility or a surface storage facility. (Source: NCGS § 130A-290)

LANDFILL, DEMOLITION - A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other solid wastes approved by the Director of the North Carolina Division of Solid Waste Management or the Director's authorized representative. (Source: 15A NCAC § 13B.0101).

LANDLOCKED PARCEL - A parcel of land without access of record with the County Register of Deeds.

LANDOWNER - Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan or a phased development plan under this section, in the manner allowed by ordinance. (Source: NCGS § 160D-102)

LANDSCAPE - An area set aside from structures and parking which is developed with natural materials (i.e. lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences and street furniture.

LANDSCAPE ARCHITECT - A person who holds a current certificate entitling him or her to practice "landscape architecture" and to use the title "landscape architect" in North Carolina under the authority of NCGS, chapter 89A. (Source: NCGS § 89A-1).

LANDSCAPE CONTRACTOR - Within the meaning of this Chapter any person, partnership, association or corporation which holds a certificate issued by the North Carolina Landscape Contractors' Registration Board. (Source: NCGS § 89D-1).

LATERAL SEWER - A sewer which discharges into a trunk line and has only collection lines tributary to it. A line from a structure or use which discharges into a collection line is not a lateral.

LETTER OF MAP CHANGE (LOMC) - An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

1. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
2. Letter of Map Revision (LOMR): A revision based on technical data that

may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

3. Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIBRARY OR MUSEUM - A room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical or scientific objects.

LICENSED GEOLOGIST - A person who is licensed as a geologist under the provisions of the North Carolina Geologists Licensing Act, NCGS, Chapter 89E.

LICENSED SOIL SCIENTIST - A person who is licensed as a soil scientist under the North Carolina Soil Scientist Licensing Act, NCGS, Chapter 89F.

LIGHT DUTY TRUCK - Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. (c) Available with special features enabling off-street or off-highway operation and use.
- 4.

LINEAR PARK - Any linear park as defined in the Cabarrus County Parks and Recreation Master Plan, at 4-8 and 4-7.

LIQUOR STORE- A store which sells or offers to sell alcoholic beverages, as defined in NCGS § 18B-101.

LIVESTOCK - "Livestock" shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine (Source: Livestock Law, NCGS § 68-15) (excluding potbellied pigs weighing not more than 150 pounds and not more than 24 inches in height, that are registered with the International Potbellied Pig Registry (IPPR) and physically tattooed with their assigned number, with proof of annual vaccination records and neutering or spaying records from a licensed veterinarian, with a maximum of 2 such pigs per household (those within the City limits above 2 per household at the time of adoption of this ordinance shall be grandfathered but may not be replaced)) and domestic fowl (Source: NCGS § Domestic Fowls 68-25).

LIVESTOCK DEALER - Any person who buys livestock (i) for his own account for purposes of resale, or (ii) for the account of others. (Source: NCGS § 106-418.8)

LOADING AND UNLOADING SPACES - A permanently maintained space on the same lot as the principal building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

LOADING SPACE - An off-street portion of a parcel for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel. This space shall open onto a street or alley, and any use of the space shall not obstruct pedestrian or vehicular traffic upon the street or alley.

LOCAL ROAD OR LOCAL STREET - Provides direct access to adjacent land and access to higher street classifications. All streets or roads not otherwise classified are local.

LOT - A parcel of land described by metes and bounds and held or intended to be held in separate lease or ownership, or shown as a lot or parcel on a recorded subdivision, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger lot, parcel, or tract into two (2) or more smaller lots or units. A "lot" includes any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

LOT AREA - The area of a horizontal plane within the lot lines of a lot.

LOT, CORNER - A lot having frontage on two (2) intersecting streets, or upon two sides of the same street, the adjacent sides of which street or streets contain an angle of not more than one hundred and thirty-five degrees (135). In the case of a curved corner, the corner of the lot shall be that point on the Lot Line adjoining the street or Right-of-Way nearest to the point of intersection of the said tangents.

LOT COVERAGE - The percentage of the area of a lot which is occupied by all buildings or other covered structures using the roof outline for all outer dimensions.

LOT DEPTH (LENGTH) - The length (or depth) of a lot shall be:

1. If the front and rear lines are parallel, the shortest distance between such lines.
2. If the front and rear lines are not parallel, the shortest distance between the midpoint of the front lot line and the midpoint of the rear lot line.
3. If the lot is triangular, the shortest distance between the front lot line and the line parallel to the front lot line, not less than ten feet long lying wholly within the lot.

LOT, DOUBLE FRONTAGE (THROUGH LOT) - An interior lot having frontage on two (2) non-intersecting streets.

LOT, FLAG - A lot having no frontage or access to a street or place except by a narrow strip of land.

LOT FRONTAGE - The distance for which a lot abuts on a street.

LOT, INTERIOR - A lot other than a corner lot or a through lot.

LOT, KEY - A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and fronting on the street which forms the side boundary of the corner lot.

LOT LINE - Any boundary or boundary line which provides the legally defined limits of a lot, parcel tract, or plot.

LOT LINE, FRONT - In the case of an interior lot, a line separating the lot from the street right-of-way. In the case of a corner lot, the narrower of the two lot lines adjoining a street right-of-way. If said lot lines for a corner lot are of the same length, then both lot lines shall be considered a Front Lot Line for purposes of this Ordinance.

LOT LINE, REAR - A lot line which is opposite and most distant from, the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

LOT LINE, SIDE - The boundary of a lot which is not a front lot line or a rear lot line.

LOT LENGTH - See Lot Depth.

LOT THROUGH - A lot having a part of opposite lot lines abutting two (2) streets, and which is not a corner lot. (Also known as a "double frontage lot"). On such lot, both lot lines are front, except that where a non-access easement has been established on such a lot, the front lot line shall be considered as that lot line most distant front the lot line containing the non- access easement.

LOT WIDTH - For rectangular lots, lots having side lot lines not parallel, and lots on the outside of the curve of a street, the distance between side lot lines measured at the required Minimum front yard line on a line parallel to the street or street chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured 30 feet behind the required minimum front yard line on a line parallel to the street or street chord.

LOWEST ADJACENT GRADE (LAG) - the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

LOW INCOME HOUSING - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed eighty percent (80%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

MAINTENANCE - The replacing or repairing of a minor part or parts of a building or structure which have degraded by ordinary wear or tear or by the weather.

MAJOR SITE PLAN - See Article 5 of this Ordinance.

MAJOR SUBDIVISION - All land subdivisions that are not exempted by state statute or previously described under the minor subdivision procedures shall be processed as a major subdivision.

MAJOR THOROUGHFARE - A Major Thoroughfare as designated on the Cabarrus-South Rowan MPO Thoroughfare Plan.

MANSARD - A steeply pitched roof, pitched at such an angle as to resemble a building

wall.

MANSARD ROOF - A roof with two slopes on all four sides, with the lower slope nearly vertical and the upper nearly horizontal.

MANUFACTURED HOME - A structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS § 143-145).

MANUFACTURED HOME, SINGLE SECTION - See MANUFACTURED HOME, TYPE I.

MANUFACTURED HOME, MULT-SECTION - A manufactured home assembled in two (2) or more sections. Also, see MANUFACTURED HOME, TYPE II.

MANUFACTURED HOME, TYPE I - A manufactured home assembled in one section not exceeding seventeen (17) feet in width.

MANUFACTURED HOME, TYPE II - A multi-section manufactured home greater than or equal to seventeen (17) feet in width. Width for MANUFACTURED HOMES - TYPE II shall be determined by mean width when all sections are in a final assembly arrangement.

MANUFACTURED HOME PARK - Any area, lot, parcel or tract held in common ownership, and on which individual portions of said area, lot, parcel or tract are leased for the placement of manufactured homes as a primary residence. A manufactured home land lease community does not include manufactured home subdivisions or property zoned for manufactured home subdivisions.

MANUFACTURED HOME SPACE - The portion of land area allotted and/or designated to be allotted to any one manufactured home. The term "manufactured home space" shall include the term "mobile home space."

MANUFACTURED HOME SUBDIVISION - A parcel or contiguous parcels of land subdivided into two (2) or more lots configured for development of manufactured housing.

MANUFACTURED HOUSING - See Manufactured Home.

MANUFACTURING, HEAVY - An establishment and/or activity primarily engaged in manufacturing, production and/or assembly which involves specialized processes on the premises.

MANUFACTURING, LIGHT - An establishment and/or activity primarily engaged in manufacturing, production and/or assembly which does not involve, on the premises, the use of heat, noise and/or odor generating/producing processes, which are detectable off-site.

MARKET VALUE - The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

MARQUEE - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN - Any sign attached to, in any manner, or made a part of a marquee.

MASSAGE - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. (Source: NCGS § 14-202.10)

MASSAGE BUSINESS - Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. (Source: NCGS § 14-202.10)

MATERIAL - Relative to sexually oriented businesses, "material" shall mean and include, but not be limited to, accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.

MATERIALS RECOVERY FACILITY - Any site used for the separation of recyclable materials from nonhazardous waste streams, or where commingled recyclable materials are sorted into distinct categories. For purposes of this definition, the phrase "recyclable materials" shall be defined as set forth in NCGS § 130A-290, which is incorporated herein by this reference.

MEAN SEA LEVEL - For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

MEDICAL CLINIC - An office occupied and used for the duties associated with a Health Care Provider or Chiropractor.

MENTAL HEALTH FACILITY - Any individual, association, group or other entity at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes any "area facility," "licensable facility," "private facility," "residential facility," "State facility," "24-hour facility," Veterans Administration facility as defined in NCGS § 122C-3. (Source: NCGS § 122C-3).

MEZZANINE - One or more intermediate levels between the floor and ceiling of a story, meeting the requirements of § 503.2.3 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

MICRO WIRELESS FACILITY - A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches

MINE - An area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended. (Source: Mine Safety and Health Act of North Carolina, NCGS § 74-24.2) See § 8.3 of this Ordinance.

MINI-WAREHOUSE - Buildings which are composed of contiguous individual rooms which

are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant; but excluding the storage of explosive, corrosive or noxious materials, such as dust, fumes, or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties; and further excluding any other use otherwise permitted in the Zoning District in which the Mini Warehouse is located. See § 8.3 of this Ordinance.

MINING - Defined as: a.) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; or b.) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include: (i) Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area; (ii) Mining operations where the affected land does not exceed one acre in area; (iii) Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land; (iv) Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining; (v) Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area. (Source: The Mining Act of 1971, NCGS § 74-49)

MINOR THOROUGHFARE- A Minor Thoroughfare as designated on the Cabarrus-South Rowan MPO Thoroughfare Plan.

MITIGATION - The minimization of impacts to existing vegetation and wildlife habitat as a result of development in the resource area, and that lost vegetation and wildlife habitat are restored or recreated.

MIXED USE DWELLING - See "BUILDING, MIXED USE."

MIXED USE DEVELOPMENT OR MIXED USE PROJECT- A proposed development that includes primary non-residential and primary residential uses on the same development site.

MODERATE INCOME HOUSING - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed one hundred percent

(100%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

MODULAR HOME - A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home may consist of one or more sections transported to the site in a manner similar to a mobile home or manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

MONUMENT SIGN - A ground sign that is mounted generally flush with the surrounding grade. It may not be attached to a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed 24 inches in height and are included in the measurement of sign height.

MOTEL - A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

MOTOR HOME - A vehicular-designed unit built on, or permanently attached to, a self-propelled vehicle chassis, van, or chassis cab, which is an integral part of the complete vehicle, to provide temporary living quarters for recreational, camping, or travel use.

MOTOR VEHICLE - See "VEHICLE, MOTOR."

MOTOR VEHICLE REPAIR SHOP - See "AUTOMOBILE REPAIR SHOP".

MOTORSPORTS COMPLEX - A facility consisting of a racetrack, seating, concession areas, suites, and parking facilities, with accessory offices, residences, and/or retail facilities, and which is utilized primarily for the hosting of automobile racing events.

MULTI-FAMILY DWELLING - A structure arranged, designed, and intended to be the residence of more than one family, with each family having independent cooking and bathing facilities.

MULTIPLE DWELLING- See "APARTMENT HOUSE."

MUNICIPALITY - An incorporated city or town.

MUNICIPAL STREET - A street or highway accepted by the City and which is not a State Highway. (Source: 19A NCAC § 20.0404).

MUNICIPAL SOLID WASTE MANAGEMENT FACILITY- Any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal. (Source: NCGS § 130A-290)

NAICS MANUAL - The North American Industry Classification System, 1997 edition (or most current version as amended), published by the Office of Improvement and Budget of the Executive Office of the President, which is hereby incorporated by this reference.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - A fixed reference adopted as a standard geodetic datum for elevations determined by leveling. Established in 1929. Also referred to as National Geodetic Vertical Datum of 1929 and Sea Level Datum of 1929. The NGVD is usually preferred as the primary datum for engineering design. NGVD is derived from a general adjustment of the first order level nets of both the United States and Canada. It was formerly called "Sea Level Datum of 1929" or "mean sea level". Although the datum was derived from the average sea level over a period of many years at 26 tide stations along the Atlantic, Gulf of Mexico, and Pacific Coasts, it does not necessarily represent local mean sea level at any particular place.

NATURAL EROSION - See Sedimentation Control Standards.

NATURAL HAZARD - A geologic, floodplain, or wildfire hazard as identified by a State or federal agency.

NATURAL RESOURCE - Existing natural elements relating to land, water, air, plant and animal life, including, but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation and animal habitats.

NEIGHBORHOOD PARK - A public recreation facility ranging in size from fifteen (15) to twenty-five (25) acres and which is improved with a combination of active recreation areas for family use such as field game areas (such as ball field), court game areas (such as tennis and basketball courts), crafts, playground apparatus, and passive recreation areas such as picnicking.

NET AREA - The area of a lot or parcel, excluding all dedicated streets or alleys and roadway or alley easements.

NET FLOOR AREA - The square footage of the primary use area of a building including restrooms, hallways and stairwells, but not including normally unoccupied areas such as garages, storage rooms, furnace areas, stairways, elevator shafts, elevator lobbies, rest rooms, mechanical areas, security areas or services areas.

NEW CONSTRUCTION - Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

NODE - An identifiable grouping of uses subsidiary and dependent upon a larger urban grouping of similar or related uses.

NON-COMMERCIAL MESSAGE - Any sign, wording or other representation that expresses an idea, theory or fact not relating directly or indirectly to business.

NON-COMMUNITY WATER SYSTEM - See definition of "Public Water System."

NON-CONFORMING - A legal use, structure, and/or development which existed prior to the adoption of this Ordinance or any amendment thereto, which does not presently conform to this Ordinance or its amendments.

NONCONFORMING BUILDING OR STRUCTURE - A Building or Structure that was lawfully developed, and legally existed prior to any change in, the applicable zoning district bulk regulations, but does not comply with one or more of the applicable district bulk regulations, either on the Effective Date of this Ordinance or as a result of any amendments to this Ordinance. See § 13.1 of this Ordinance.

NON-CONFORMING SIGN - Any sign that does not conform to the requirements of this ordinance.

NON-CONFORMING USE - A use of land that:

1. legally existed before its current zoning or land use category designation; and
2. has been maintained continuously since the time the applicable regulations governing the land changed; and
3. because of subsequent changes, does not conform to the provisions of this Ordinance now governing such land.

See § 13.1 of this Ordinance.

NON-ENCROACHMENT AREA - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot

as designated in the Flood Insurance Study report.

NON-POINT SOURCE - Generalized discharge of waste which cannot be located as to a specific source into a water body.

NON-PROFIT - Organizations which qualify for exemption from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, and for which an application for exemption thereto has been approved by the federal Internal Revenue Service.

NOTICE OF INTENT - A written notification to the Division of Environmental Management, Department of Natural Resources and Community Development, that an activity or discharge is intended to be covered by a general permit, as more particular defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

NURSERY - A place where plants are raised, acquired, and maintained for transplanting or sale. It may also include, either exclusively or in conjunction with the above activities, the sale of materials commonly used for landscaping purposes, such as soil, rock, bark, mulch and other materials determined by the Director to be landscaping materials. Sale or rental of small landscaping tools and supplies may be an accessory use. See § 78.3 of this Ordinance.

NURSERY SCHOOL/PRE- SCHOOL/DAY CARE - See "CHILD CARE."

NURSING HOME - A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A "nursing home" is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A 'nursing home' provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (Source: NCGS § 131E-101) See § 8.3 of this Ordinance.

OBSTRUCTION - A dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or material, in, along, across, or projecting into any drainway, channel,

or watercourse, which might impede, retard or change the direction of the flow of water, either by itself or by catching and collecting debris carried by the water, or which is placed where the 100-year flood may carry the debris downstream.

OCCUPANCY - The purpose for which a building, or part thereof, is used or intended to be used. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

OCCUPANT LOAD - The calculated minimum number of persons for which the means of egress of a building or portion thereof is designed, based on Table 1003.1 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

OCCUPIED RESIDENCE - A dwelling actually inhabited by a person on a continuous basis as exemplified by a person living in his or her home.

OCCUPIED SPACE - The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by the State Building Code. (Source: North Carolina State Building Code, Vol. VII, § 202).

OFFICE - A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

OFF-PREMISE SIGN - A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located. However, this definition shall include Outdoor Advertising or "Billboard" signs.

OFF-SITE - Any premises not located within the area of the property to be subdivided or developed, whether or not in the common ownership of the applicant for subdivision or development approval.

OFF-SITE STORMWATER SYSTEMS - Stormwater management systems that are located outside the boundaries of the specific project in question, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

ON-PREMISE SIGN - A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

ON-SITE - With regard to mitigation, "on-site" means restoration or replacement of a wetland or river stream at or very near the site where a wetland or river stream has been or will be degraded by regulated activity.

ON-SITE STORMWATER SYSTEMS - The systems necessary to control stormwater within an individual development project and located within the project boundaries. (Source: 15A NCAC 2H.1002).

OFF-STREET PARKING SPACE - The space required to park one vehicle, exclusive of access drives, and not on a public right-of-way.

ONE-HUNDRED-YEAR (100-YEAR) FLOODPLAIN - The low land near a watercourse which has been, or may be, covered by water of a flood of 100-year frequency, as established by engineering practices of the U.S. Army Corps of Engineers. It shall also mean that a flood of this magnitude may have a one percent change of occurring in any given year.

OPEN DUMP - A solid waste disposal site which is not a sanitary landfill. (Source: NCGS § 130A- 290)

OPEN MINING - The mining of natural mineral deposits by removing the overburden lying above such deposits and mining directly from the deposits exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying and dredging.

OPEN SPACE - Any space or area (i) characterized by great natural scenic beauty or (ii) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources. The term "open space land" includes any undeveloped or predominantly undeveloped land in an urban area that has value for one or more of the following purposes: (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. The term "open space uses" means any use of open space land for (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. (Source: NCGS § 160D-1307)

OPEN SPACE STANDARDS - See Parks and Open Space Standards.

OPEN SPACE, COMMON - Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of the residents of the development.

ORDINANCE - Unless otherwise specified, refers to this Concord Development Ordinance.

OTHER ANIMALS - Those animals not defined elsewhere in this Article as household pets or agricultural animals.

OUTDOOR ADVERTISING (BILLBOARD) SIGNS - A permanently installed sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

OUTDOOR CULTURAL EVENTS - Entertainment, educational and cultural events generally involving the outdoor assembly of 50 or more people.

OUTDOOR EVENT, TEMPORARY - A temporary commercial amusement activity such as a carnival, circus, rodeo or auction.

OUTDOOR LIGHT FIXTURES - "Outdoor light fixture" means outdoor artificial illuminating devices, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage and street lighting.

OUTDOOR RECREATIONAL FACILITY - Any plot or tract of land on which there is located an outdoor swimming pool, tennis court, or golf course that is open to either the general public or to the members and guests of any organization having 50 or more members.

OUTDOOR STORAGE, NON-VEHICULAR - An establishment that provides for outdoor storage of machinery and equipment, not including vehicles.

OVERBURDEN - The earth, rock, and other materials that lie above the natural deposit of minerals.

OWNER - Any person, agent, firm or corporation having a legal or equitable interest in the property. (Source: North Carolina State Building Code, Vol. 1, § 202).

PANEL - The primary surface of a sign that carries the identifying/advertising message.

PARAPET - A low wall or barrier built above the cornice of a building, whether built

with a sloped or flat roof.

PARCEL - An area of land defined by a legal description and recorded with the County Register of Deeds.

PARENT - A person that directly, or indirectly through one or more intermediaries, controls another person.

PARK, COMMUNITY - The community park is easily accessible to a single, or several neighborhoods, depending on local needs and population distribution at the time the park is developed. When possible, the park may be developed adjacent to a high or middle school. The community park provides recreational opportunities for the entire family and contains areas suited for intense recreational purposes such as a recreation center building, athletic fields, swimming, tennis, and walking/jogging. The park may also possess areas of natural quality for outdoor recreation such as viewing, sitting and picnicking.

PARK, DISTRICT - A district park provides more diverse recreational opportunities than a regional park, only on a much smaller scale. The district park emphasizes passive recreational opportunities similar to a regional park, yet also includes limited active recreational facilities. A district park is easily accessible by the population it serves and is within a 20-mile service radius. The park contains a minimum of 5 acres per 1,000 population. A district park is typically at least 200 acres in size.

PARK, LINEAR - A linear park is an area developed for one or more varying modes of recreational travel such as hiking, biking, horseback riding and canoeing. Often times the linear park will be developed to connect recreational facilities, as well as schools and residential neighborhoods. The acreage and service area of a linear park is variable and subject to existing natural and man-made features, the existence of public right-of-way and the public demand for this type of park. In some cases, a linear park is developed within a large land area designated for protection and management of the natural environment, with the recreation use a secondary objective.

PARK, NEIGHBORHOOD - The neighborhood park is designed to serve a population of up to 5,000, but in many instances, even more are served. The park requires 2.5 acres per 1,000 population served and is typically at about 15-25 acres. The neighborhood park is typically characterized by recreational activities for each member of the family, such as field games, court games, crafts, playground apparatus, picnicking and space for quiet/passive activities. The service radius for a neighborhood park is 1/2 to one mile and is easily accessible to the neighborhood population through safe walking and biking access. Parking may or may not be required. Where feasible the activity areas are equally divided between quiet/passive activities and active play. This type of park may be developed as a

school/park or community center facility.

PARK, REGIONAL - A regional park is a park within a fifty-mile service radius, which serves several communities or a multi-county region. Approximately 10 acres per 1,000 population served and generally 1,000 acres is required for developing a regional park. The regional park is an area of natural ornamental quality that provides diverse and unique natural resources for nature-oriented outdoor recreation including nature viewing and study, wildlife habitat conservation, hiking, camping, canoeing and fishing. Generally, 80% of the land is reserved for conservation and natural resource management, with less than 20 % developed for recreation. The recreation areas consist of play areas and open fields/meadows for informal use.

PARKING GARAGE - An attached or detached building which is used for the parking or storing of motor and other vehicles, open to public use without charge or for a fee, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles. (Adapted from: Parking Authority Law, NCGS § 160A-551)

PARKING LOT- Any lot, parcel, area or place for the parking or storing of motor and other vehicles, open to public use without charge or for a fee, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles. (Adapted from: Parking Authority Law, NCGS § 160A-551)

PARKING SPACE - A space, enclosed or unenclosed, exclusive of driveways or aisles, for the temporary parking of one vehicle, which has adequate access to permit ingress and egress of a motor vehicle to a street.

PARKING STRUCTURE- A facility, partially or fully above ground, accessory to another facility or a primary use, at which a fee may be charged for the temporary storage of passenger vehicles.

PARTIALLY SHIELDED- "Partially shielded" means that fixtures are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the lamp reducing light above the horizontal, as certified by photometric test report.

PASSIVE OPEN SPACE - Any area in a particular natural or environmental setting which may include conservation land providing for resource-based outdoor recreation

activities that are less formalized or program-oriented than activity-based recreation. Resource-based outdoor recreation means and refers to activities requiring a natural condition that cannot easily be duplicated by man and includes, but is not limited to, boating, fishing, camping, nature trails, and nature study. Farm fields, pastures, and wood lots may be considered passive open space. Farm buildings and intensively used areas such as parking lots and equipment storage yards may not be considered passive open space.

PATH, MULTI-USE - A pathway, which may be paved or unpaved, and is physically separated from motorized vehicular traffic by an open space or barrier and is either within the highway right-of-way or within an independent tract, or easement. Multi-use path activities may include walking, hiking, jogging, horseback riding, bicycling, and roller skating.

PATIO HOME - A detached home built on a very small lot. A patio home can also be a single-family detached dwelling sitting on land owned by a condominium group. Targeted buyers are homeowners who do not want to be bothered with lawn maintenance.

PAVEMENT - The paved portion of a street, including paved shoulders and on-street parking areas, but not including sidewalks and driveways. (Source: 19A NCAC § 20.0404).

PAWNSHOP - The location at which, or premises in which, a pawnbroker, as defined in NCGS § 91A- 2, regularly conducts business. (Source: Pawnbrokers Modernization Act of 1989, NCGS § 91A-2)

PEDESTRIAN PATH - An improvement located within a public right-of-way or private area which is designed primarily for the use of pedestrians and/or bicyclists.

PEDESTRIAN RIGHT-OF-WAY -A right-of-way or easement dedicated for public pedestrian access.

PEDESTRIAN SPACE: Any public or private space that invites people to sit, gather, or congregate.

PENNANT - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PERFORMER - Any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business.

PERMEABLE PAVEMENT - A pavement system with traditional strength characteristics,

but which allows rainfall to percolate through it rather than running off. A permeable pavement system utilizes either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded coarse aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water which allow for passage of runoff and air. Examples of permeable pavement systems include Grasspave2®, Gravelpave2®, Turfstone®, and UNI Eco-stone®. (See Watershed Management Institute, Inc. and U.S. Environmental Protection Agency, Office of Water, Operation, Maintenance & Management of Stormwater Management (Aug. 1997), at 2-32; Booth & Leavitt, Field Evaluation of Permeable Pavement Systems for Improved Stormwater Management, 65 J. Am. Planning Ass'n 314 (Summer 1999), at 314-325.

PERSON - Any individual or group of individuals, partnership, general or limited, firm, association, whether incorporated or unincorporated, corporation, company, firm, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or any governmental or quasi- governmental entity, or other legal entity. The term "Person" includes both for profit and not-for-profit entities.

PERSONAL SERVICE ESTABLISHMENT - A business that provides personal services directly to customers at the site of the business, or which receives goods from or returns good to the customer which have been treated or processed at another location. "Personal service establishment" includes, but is not limited to: travel agencies, dry-cleaning and laundry drop-off and pick-up stations, tailors, hair stylists, cosmeticians, toning or tanning salons, branch offices of financial institutions, photocopying services, postal substations, package delivery drop-off and pick-up stations, shoe repair shops, interior design studios, domestic pet grooming and care services, and art, music, dance and martial arts schools.

PETITIONER - An applicant.

PET SHOP - A person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale. (Source: NCGS § 19A-23)

PHARMACY - Any place where prescription drugs are dispensed or compounded. (Source: NCGS § 90-85.3)

PHASED DEVELOPMENT PLAN - A plan which has been submitted to a city by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined

by the city to be a site-specific development plan. (Source: NCGS § 160D-102 et seq.)

PHASED SUBDIVISION APPLICATION OR PHASED SITE PLAN APPLICATION - An application for subdivision or site plan approval in which the applicant proposes not to immediately subdivide or develop the property but to develop the property in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, non-residential development projects, planned unit developments, mixed-use projects, and residential developments. A phased subdivision application or phased site plan application must be filed as part of an application for a specific plan or Master Preliminary Plan.

PHYSICIAN - An individual licensed to practice medicine pursuant to Article 1 of Chapter 90, NCGS.

PILINGS - Foundational structures placed into the earth to secure buildings and other structures.

PLACE OF PUBLIC ASSEMBLY - A fairground, auditorium, stadium, church, theater or any other place where people assemble. (Source: NCGS § 130A-334)

PLANNED CAPACITY - See Adequate Public Facilities Standards of this Ordinance.

PLANNED CAPITAL IMPROVEMENT - See Adequate Public Facilities Standards of this Ordinance.

PLANNED DEVELOPMENT - A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land zoned and improved as a development for which the otherwise applicable bulk use and other requirements may be modified in order to allow for more flexible planning in conformance with the development approval process and developed in accordance with the provisions of section 9.1 of this Ordinance.

PLANNING COMMISSION - The City of Concord Planning Commission. Also referred to as the "Commission."

PLANT- Any member of the plant kingdom, including seeds, roots and other parts or their propagules. (Source: NCGS § 106-202.12)

PLAT - The legal map of a subdivision.

POINT SOURCE- Any discernible, confined, and discrete conveyance, including, but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal-feeding operation from which wastes are or may be discharged to the waters of the State. (Source: NCGS § 143-213)

POLITICAL SIGN - A sign advertising a candidate or issue to be voted upon on a specific election day, which is attached to the ground by a stake or stakes, but which excludes any other sign defined as a portable sign.

POOL OR BILLIARD HALL OR PARLOR - An establishment which is engaged in the business of keeping for rent or hire four (4) to sixteen (16), billiard or bagatelle tables, or tables of like character. Businesses with more than sixteen (16) of such tables are not permitted.

PORTABLE SIGN - Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, tent signs, A-frame or T-shaped signs and normal advertising placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention.

PORTICO - A colonnade or covered, sheltered entrance to a building.

POSITIVE DRAINAGE - Clear, unobstructed flow of stormwater away from any building.

POST-FIRM - Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

PRACTICABLE ALTERNATIVE - Alternative to proposed project which is available and capable of being executed after taking into consideration cost, existing technology, and logistics in light of overall project purposed, and having less impacts to wetlands or river streams. It may involve using an alternative site in the general region that is available to the developer and may feasibly be used to accomplish the project.

PRE-FIRM - Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

PRELIMINARY PLAT - The preliminary drawing or drawings, described in Chapter 5 of this Ordinance, indicating the proposed manner or layout of the subdivision to be submitted to the platting authority for approval.

PRETREATMENT FACILITY - Any treatment works installed for the purpose of treating, equalizing, neutralizing or stabilizing waste from any source prior to discharge to

any disposal system subject to effluent standards or limitations. (Source: NCGS § 143-213)

PRETREATMENT STANDARDS - Effluent standards or limitations applicable to waste discharged from a pretreatment facility. (Source: NCGS § 143-213)

PRINCIPAL BUILDING OR STRUCTURE - The building or structure in which is conducted the principal use of the zoning lot on which it is located. This shall include any buildings which are attached to the principal structure by a covered structure. Zoning lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

PRINCIPALLY ABOVE GROUND - Means that at least 51% of the actual cash value of the structure is above ground.

PRINCIPAL USE - The main or primary use of a parcel of land.

PRIVATE - Anything not owned or operated by the federal government, state government, or any political subdivision.

PRIVATE CLUBS - An organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in G.S. 105-130.2(1). (Source: NCGS § 130A-247)

PRIVATE USE - One which is restricted to the occupants of a lot or building together with their guests, where compensation for such use is not received, and where no business or commercial activity is associated with such use or building.

PRIVATE UTILITIES - Includes power, telephone, natural gas, cable television and private water supply service.

PRODUCE STAND - A temporary open-air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site. (See also Farmers Market.)

PROFESSIONAL ENGINEER - A person who has been duly registered and licensed as a professional engineer by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: NCGS § 89C-3)

PROFESSIONAL OFFICE - An office of a member of a recognized profession maintained

for the conduct of that profession and not including storage or sale of merchandise as a primary use.

PROJECTING SIGN - A sign which projects from a structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the building.

PROPERTY LINE, COMMON - A line dividing one lot from another. (Source: North Carolina State Building Code, Vol. 1, § 202)

PROPERTY LINE - See "Lot Line."

PROTECTED PLANT - A species or higher taxon of plant adopted by the Board to protect, conserve, and/or enhance the plant species and includes those the Board has designated as endangered, threatened, or of special concern. (Source: NCGS § 106-202.12)

PUBLIC - Anything owned or operated by the federal government, state government, or any political subdivision.

PUBLIC OR COMMUNITY WASTEWATER SYSTEM - A single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility. (Source: NCGS § 130A-334)

PUBLIC ASSEMBLY, INDOORS - Buildings or indoor facilities for the purpose of, but not necessarily limited to banquet halls, auditoria, private clubs and lodges, conference centers, and theaters, including kitchen for the preparation of food to be consumed at the premises.

PUBLIC ASSEMBLY, OUTDOOR - See "Commercial Amusement, Outdoor."

PUBLIC FACILITIES - See Adequate Public Facilities of this Ordinance.

PUBLIC HEARING - A public meeting for which public notice has been given and an opportunity for public testimony is provided.

PUBLIC LAND FOR DEDICATION AND OWNERSHIP - Parks, playgrounds, schools, drainage channels, trails, highways, roads and streets or other areas of land accepted by the City Council and dedicated for the public's use or benefit.

PUBLIC MEETING - A meeting of a Board, Planning Commission, City Council or their representatives where the public may attend.

PUBLIC NOTICE - Notice to the public of a public hearing or meeting as required by state or local law.

PUBLIC RIGHT-OF-WAY - Any area on or adjoining a street, road, highway, alley, or pedestrian/bicycle way or other special purpose way or utility installation owned by, or reserved to, the public for present or future public use.

PUBLIC SAFETY AND/OR NUISANCE - Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

PUBLIC SCHOOL OR PUBLIC SCHOOL FACILITY - Any education facility under the jurisdiction of a local board of education or local school district, whether termed an elementary school, middle school, junior high school, high school or union school. (Source: NCGS § 115C-205). Includes charter schools.

PUBLIC SPACE -A legal open space on the premises, accessible to a public way or street, such as yards, courts or open spaces permanently devoted to public use, which abuts the premises and is permanently maintained accessible to the fire department and free of all encumbrances that might interfere with its use by the fire department. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

PUBLIC TRANSPORTATION - Transportation of passengers whether or not for hire by any means of conveyance, including but not limited to a street railway, elevated railway or guideway, subway, motor vehicle or motor bus, either publicly or privately owned and operated, carpool or vanpool, holding itself out to the general public for the transportation of persons within the territorial jurisdiction of the authority, including charter service. (Source: North Carolina Public Transportation Authorities Act, § 160A-576; Regional Public Transportation Authority Act, NCGS § 160A-601)

PUBLIC TRANSPORTATION SYSTEM - Without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking or other facilities, and rights-of-way, or any combination thereof, used or useful for the purposes of public transportation. (Source: North Carolina Public Transportation Authorities Act, § 160A-576; Regional Public Transportation Authority Act, NCGS § 160A-601)

PUBLIC USE - A use which is owned by, and operated for, the public by a public entity.

PUBLIC-USE HELIPORT - A heliport or helipad that has been designed for use by the public and is available for such, whether owned or operated by a governmental agency or a private entity, provided that such entity has agreed, in writing, to that use of its property.

PUBLIC WATER SYSTEM - A system for the provision to the public of piped water for human consumption if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

1. Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and
2. Any collection or pretreatment storage facility not under the control of the operator of the system which is used primarily in connection with the system.

A public water system is either a "community water system" or a "noncommunity water system" as follows:

1. "Community water system" means a public water system which serves 15 or more service connections or which regularly serves at least 25 year-round residents.
2. "Noncommunity water system" means a public water system which is not a community water system.

(Source: NCGS § 130A-313)

The term "public water system" also includes a system for the provision of piped water for human consumption as defined in NCGS 130A-313(10). (Source: NCGS § 90A-20.1)

PYLON (OR POLE) SIGN - A ground mounted sign attached to one or more posts, whose base is greater than 24 inches above grade.

QUADRUPLEX- A building containing four (4) attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with an adjoining unit or units.

QUALIFIED LANDSCAPE ARCHITECT - A person with at least a four year degree in the field of landscape architecture from an accredited university offering such a degree.

QUARRY- See "MINE." See § 8.3 of this Ordinance.

RACE TRACK, AUTOMOBILE - A facility consisting of a paved roadway used primarily for the sport of automobile racing. Race track may include seating, concession areas, suites, and parking facilities, but does not include accessory offices, residences, or retail facilities. This definition shall also include any facility used for driving automobiles under simulated racing or driving conditions (test tracks,

“shakedown” tracks or other similar facilities), but which does not include seating, concession areas, or retail facilities for the general public.

RCRA - The Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as amended.

REAL PROPERTY - Lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate. (Source: Parking Authority Law, NCGS § 160A-551) The term "real property" also includes a building, structure, real estate, land, tenement, leasehold, interest in real estate cooperatives, condominium, and hereditament, corporeal and incorporeal, or any interest therein. (Source: NCGS § 41A-3)

REAR YARD - See "Yard, Rear."

REAR SETBACK - The minimum horizontal distance between any building and the rear property line.

RECEIVING AREA - An area designated by this Ordinance as appropriate for development beyond the target density through the transfer of development rights.

RECLAMATION - The reasonable rehabilitation of the affected land for useful purposes, and the protection of the natural resources of the surrounding area. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish on a continuing basis the vegetative cover, soil stability, water conditions and safety conditions appropriate to the area. (Source: The Mining Act of 1971, NCGS § 74-49)

RECLAMATION PLAN- The operator's written proposal as required and approved by the Department for reclamation of the affected land, which shall include but not be limited to:

1. Proposed practices to protect adjacent surface resources;
2. Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;
3. Manner and type of revegetation or other surface treatment of the affected areas;
4. Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;
5. Method of compliance with State air and water pollution laws;

6. Method of rehabilitation of settling ponds;
 7. Method of control of contaminants and disposal of mining refuse;
 8. Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;
 9. Maps and other supporting documents as may be reasonably required by the Department; and
 10. A time schedule that meets the requirements of G.S. 74-53.
- (Source: The Mining Act of 1971, NCGS § 74-49)

RECORDED/RECORD - Document(s) being placed in the indexed or coded files and book(s) of the County Clerk and Register of Deeds.

RECREATIONAL CENTER - A facility, public or private, with reserved areas for relaxation, recreation, and social related activities.

RECREATIONAL VEHICLE - A vehicle, which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
5. Is fully licensed and ready for highway use.

REDEVELOPMENT - For purposes of Article 4, only, redevelopment means any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development, in accordance with the provisions of 15A NCAC 2H.100. (Source: 15A NCAC 2H.1002).

REFERENCE LEVEL -The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

REFUSE - All waste soil, rock, mineral, scrap, tailings, slimes, and other material directly connected with the mining, cleaning, and preparation of substances mined and shall include all waste materials deposited on or in the permit area from other sources. (Source: The Mining Act of 1971, NCGS § 74-49)

REGISTERED LAND SURVEYOR - A person who, by reason of his special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, as herein defined, as attested by his registration as a registered land surveyor by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: NCGS § 89C-3)

REGULATION - As used in this Ordinance, means an applicable provision of this Ordinance or any other requirement promulgated under this Ordinance.

REGULATORY FLOOD ELEVATION - The elevation which is two (2) feet above the calculated water-surface elevation of the base flood.

REGULATORY FLOOD PROTECTION ELEVATION - The Base Flood Elevation plus the Freeboard. In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

RELIGIOUS INSTITUTION - A facility used primarily for religious assembly or worship and related religious activities.

REMEDY A VIOLATION - To bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

RENDERER - The business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, fallow deer, red deer, horses, mules, or other equines. (Source: § 106-549.15)

REQUIRED SETBACK - The distance required by Article 7 of this Ordinance between the building or other structure and the lot line or, for un-subdivided properties, the property line.

RESEARCH FACILITY - Any place, laboratory, or institution at which scientific tests, experiments, or investigations are carried out, conducted, or attempted. (Source: NCGS § 19A-23)

RESERVATION- Reservation of land does not involve any transfer of property rights. It

constitutes an obligation to keep property free from development for a stated period of time.

RESIDENTIAL CHILD-CARE FACILITY - A staffed premise with paid or volunteer staff where children receive continuing full- time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care. (Source: NCGS § 131D-10.2)

RESIDENTIAL USE - Includes all uses listed as residential in the Use Matrix.

RESIDENT PLANT OR RESIDENT SPECIES - A native species or higher taxon of plant growing in North Carolina. (Source: NCGS § 106-202.12)

RESORT - A building or group of buildings containing two (2) or more guest rooms, other than a boarding house, hotel or motel, and including outdoor recreational activities such as, but not limited to, horseback riding, golf course, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities, and dining facilities intended for the primary use of its guests, but not including bars and restaurants which cater primarily to other than guests of the guest ranch/resort.

RESOURCE EXTRACTION - The on-site extraction of surface or sub-surface mineral products or other natural resources, including but not necessarily limited to quarries, burrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

RESTAURANT - An establishment serving food and beverages where all service takes place within an enclosed building or accessory outdoor eating or food dispensing areas.

RE-SUBDIVISION - The changing of an existing parcel created by a plat and recorded with the County Clerk and Register of Deeds.

RETAIL - The sale of any tangible personal property in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale. (Source: North Carolina Sales and Use Tax Act, NCGS § 105-164.3).

RETAILER - Every person engaged in the business of making sales of tangible personal property at retail, or peddling the same or soliciting or taking orders for sales, whether for immediate or future delivery, for storage, use or consumption. (Adapted from: North Carolina Sales and Use Tax Act, NCGS § 105-164.3)

RETAINING WALL - A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site.

REVISION - "Revision" means the changing and/or rescinding of zoning and other land

use approvals following notice and an opportunity for objection. The status of the land use approvals, including zoning and/or subdivision approval(s) may be that which applied previously to the property or may be a new and/or different zoning or other land use status.

REZONING - An amendment to the Official Zoning Map as established and maintained according to Article 3 to this Ordinance.

RIDGE - For purposes of any regulation or provision of this Ordinance applicable to mining, overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation. (Source: The Mining Act of 1971, NCGS § 74-49)

RIGHT-OF-WAY - 1. A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes; 2. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian. For purposes of this Ordinance, the "Right-of-Way" for streets shall mean and refer to the boundaries of any right-of-way certified and/or registered by the NCDOT pursuant to NCGS § 136-19.4, a right-of-way recorded by the City for roads or streets, or a right- of-way reserved in a recorded subdivision plat. If no such documentation exists, or if such documentation cannot be located, the "Right-of-Way" shall mean and refer to the edge of the paved surface of the street.

RIPARIAN ECOSYSTEM - Living organisms (plants and animals) and habitat that occur in association with any spring, lake, watercourse, river, stream, creek,, or other body of water, either surface or subsurface.

RIVER - A flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes. (Source: NCGS § 113A-33)

RIVERINE - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROAD - A public or private highway, hard-surface road, dirt road, or railroad. (Source: NCGS § 113A-33)

ROADSIDE STAND - An accessory structure for the seasonal retail sale of grown or produced food products on the lot.

ROADWAY - The improved portion of a street within a right-of-way and/or easement.

ROOF LINE - The highest edge of the roof or the top of parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

ROOF SIGN - Any sign erected, constructed, and/or painted wholly or partially on or above the roof of a building.

ROWHOUSE - One of a series of houses, often of similar or identical design, situated side by side and joined by common walls.

SAFETY SERVICES - Any of the following uses or activities classified under NAICS 922 (Justice, Public Order, and Safety Activities); NAICS 92212 (Police Protection), NAICS 92216 (Fire Protection), or NAICS 56162 (Security Systems Services); but not including NAICS 9221 (Justice, Public Order, and Safety Activities); 92211 (Courts); 92213 (Legal Counsel and Prosecution); 92214 (Correctional Institutions); or 92215 (Parole Offices and Probation Offices, including Emergency Medical Services). "Safety Services" does not include any warehouse or facility devoted to the maintenance of police or fire equipment, or any gun range or shooting range.

SALVAGE YARD - Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SANITARY LANDFILL - A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article. (Source: NCGS § 130A-290)

SAWMILL - An operation or facility which has, as its predominant purpose, the sawing or planing of logs or trees into rough slabs. A "sawmill" is sometimes referred to as a "planing mill." See § 8.3 of this Ordinance.

SAWMILL, ACCESSORY - A Sawmill which is operated as an incident to a construction site or another industrial or retail operation which is or will be established as a Primary Use on the same site. See § 8.3 of this Ordinance.

SCENIC EASEMENT - A perpetual easement in land which (i) is held for the benefit of the people of North Carolina, (ii) is specifically enforceable by its holder or beneficiary, and (iii) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of the land and activities conducted thereon. The object of such limitations and obligations is the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it. (Source: NCGS § 113A-33). A "scenic easement" also includes a perpetual easement in land which

1. is held for the benefit of the people of North Carolina,
2. is specifically enforceable by its holder or beneficiary, and

3. limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(Source: North Carolina Trails System Act, NCGS § 113A-85)

SCHOOL - An institution of learning, such as elementary and secondary schools, colleges and universities, which offers instruction in several branches of learning and study, but not including business colleges, nursery schools, dancing schools, riding academies, or Business, Technical, Trade schools. Includes public, private, charter and community schools.

SCHOOL, BOARDING - An elementary school, middle-school, junior high school, or high school which provides lodging or dwelling for students or faculty on the same property.

SCHOOL, BUSINESS OR TRADE - A school, other than a college or university, which may be operated as a commercial venture, and which provides part-time or full-time education beyond the high school level and does not provide lodging or dwelling units for students or faculty. Includes technical and cosmetology schools. (See NAICS 611).

SCHOOL DISTRICT - Any school district as defined in NCGS § 115C-69.

SCHOOL PROJECT - Any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the

costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination. (Source: Higher Educational Facilities Finance Act, NCGS § 115E-3)

SCRAP AND SALVAGE SERVICES - An establishment primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms, such as automotive wrecking yards, metal salvage yards, or paper salvage yards.

SCREENING - Shielding, concealing and effectively hiding from view of a person standing at ground level on an abutting site, or outside the area of the feature so screened by a wall, fence, hedge, berm or any combination of these methods, or any similar architectural or landscaped feature, such as a landscape perimeter strip or buffer yard. (See Landscape Standards).

SEARCH RING - The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

SEASONAL HIGH WATER TABLE - The highest level that groundwater, at atmospheric pressure, reaches in the soil in most years (see 15A NCAC 2H.1002, which is hereby incorporated by this reference).

SEDIMENT - Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin. (Source: the "Sedimentation Pollution Control Act of 1973, NCGS § 113A-52)

SEDIMENTATION - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.

SEDIMENTATION ACT - The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant thereto.

SEDIMENT AND EROSION CONTROL DEVICES- Sediment fences, sediment traps, or other devices necessary to reduce sedimentation as required by this section.

SEISMIC EFFECTS - Direct and indirect effects caused by an earthquake or man-made phenomena.

SENDING AREA - An area designated by this Ordinance as a sending area appropriate

for the conveyance of transferable development rights from the area.

SENIOR HIGH SCHOOL - A school which embraces the tenth, eleventh and twelfth grades. (Source: NCGS § 115C-75)

SENSITIVE AREAS - Critical Areas, slopes exceeding 3:1 (pre-development), critical wildlife habitat, stream corridors, wetlands, ridge lines, and areas defined as visually vulnerable pursuant to the Environmental and Open Space Element of the Comprehensive Plan.

SEPTAGE - Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. The term septage includes the following:

1. Domestic septage, which is either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works receiving only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works receiving either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.
2. Domestic treatment plant septage, which is solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works where the designed disposal is subsurface. Domestic treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Domestic treatment plant septage does not include ash generated during the firing of domestic treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
3. Grease septage, which is material pumped from grease interceptors, separators, traps, or other appurtenances used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup.
4. Industrial or commercial septage, which is material pumped from septic tanks or other devices used in the collection, pretreatment, or treatment of any water-carried waste resulting from any process of industry, manufacture, trade, or business where the design disposal of the wastewater is subsurface. Domestic septage mixed with any industrial or commercial septage is considered industrial or commercial septage.

(Source: NCGS § 130A-290)

SEPTAGE MANAGEMENT FIRM - A person engaged in the business of pumping, transporting, storing, treating or disposing septage. The term does not include

public or community wastewater systems that treat or dispose septage. (Source: NCGS § 130A-290)

SEPTIC TANK SYSTEM- A subsurface wastewater system consisting of a settling tank and a subsurface disposal field. (Source: NCGS § 130A-334)

SERVICE LINES - Electric, gas, communication, water, sewer, irrigation and drainage lines providing local distribution or collection service.

SERVICE STATION - A building or use devoted to the retail sale of fuels, lubricants, and other supplies for motor vehicles, including minor repair activities which are subordinate to the sale of petroleum products.

SERVICE YARD AND/OR ENTRANCE - An area and/or entrance to a structure, which is used for pickup and delivery, especially in conjunction with retail and wholesale outlets

SETBACK - The distance from the street (in the case of a Front Setback) or property line to the nearest part of the applicable Building, Structure, measured perpendicular to the street or property line, in front of which no structure may be erected.

SETBACK LINE- A line measured from the property line or right-of-way line of a public street, as applicable. Also, see building line.

SEWAGE - Water-carried human waste discharged, transmitted, and collected from residences, buildings, industrial establishments, or other places into a unified sewerage system or an arrangement for sewage disposal or a group of such sewerage arrangements or systems, together with such ground, surface, storm, or other water as may be present. (Source: NCGS § 143-213) The term "sewage" also means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with flood handling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater. (Source: NCGS § 130A-334)

SEWAGE DISPOSAL SYSTEM - Any plant, system, facility, or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage (including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources), or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or

systems, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. (Source: NCGS § 162A-2)

SEWERS - Mains, pipes and laterals for the reception of sewage and carrying such sewage to an outfall or some part of a sewage disposal system, including pumping stations where deemed necessary by the authority. (Source: NCGS § 162A-2)

SEWER SYSTEM - Pipelines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for conducting wastes to a point of ultimate disposal. (Source: NCGS § 143-213) The term "sewer system" shall also include both sewers and sewage disposal systems and all property, rights, easements and franchises relating thereto. (Source: NCGS § 162A-2)

SEXUALLY ORIENTED DEVICES - Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device. (Source: NCGS § 14-202.10)

SEXUALLY-ORIENTED BUSINESS - Any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in NCGS § 14-202.10. A "Sexually-Oriented Business" includes any Adult Establishment. (Source: NCGA §§ 160A-181.1; 14-190.13; 14-202.10). See § 8.3 of this Ordinance.

SHOPPING CENTER - A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

SHOULDER - The earthen soil, clay, or gravel or turf section of pavement support extending from the outer pavement edge to the bottom of a side ditch including shoulder sections which are paved. (Source: 19A NCAC § 20.0404).

SIDEWALK - The portion of a street or cross walkway, paved or otherwise surfaced, intended for pedestrian use only.

SIDE SETBACK- The minimum horizontal distance between any building and the side property line.

SIGN - Any object, device, display, structure, placard, identification, description, animation, illustration or part thereof which is used to advertise, to identify the purpose of a person or entity, to display, direct or attract attention to an object, person, institution, organization, business, product, service, event, individual, or to communicate information of any kind to the public, including, but not limited to,

words, letters, logos, symbols, trademarks, trade names, insignia, numerals, figures, designs, symbols, fixtures, colors, illuminations, projected images, or any other attention-diverting device(s).

SIGNIFICANT ADVERSE IMPACT - Impacts from activities that result in or contribute to any of the following consequences:

1. Alteration of the wetland or river stream environment, including alteration which results from activities such as grading of slopes and banks, creation of impervious surfaces, removal of native vegetation, placement of fill within a wetland or river stream or associated riparian ecosystem;
2. Disturbance or taking of wildlife, aquatic life, or other natural resources or habitats;
3. Alteration of base flood elevations;
4. Alteration of existing hydrologic or aquatic systems;
5. Degradation of aesthetic, scenic or cultural values associated with the ecosystem;
6. Degradation of environmental quality, including water quality, plant and wildlife communities, and ecosystem functions and stability.

SILTATION - 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.

SINGLE-FAMILY RESIDENTIAL COMPLEX - A group of single-family dwellings designed for individual separate ownership with unified management that provides common services and outdoor recreational facilities, but not including public bars, public restaurants or any commercial activity in connection therewith.

SINGLE-FAMILY RESIDENTIAL DWELLING - A separately owned residence for use by one family as a housekeeping unit with space for eating, living, and permanent provisions for cooking and sanitation. See NCGS § 87-15.5).

SITE EVALUATION - An investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical

specialist approved by the North Carolina Soil and Water Conservation Commission.
(Source: NCGS § 106-802, Swine Farm Siting Act)

SITE PLAN - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision, and a site plan approval based in whole or in part upon the application of standards involving judgement and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

SITE SPECIFIC DEVELOPMENT PLAN (SSDP) - A plan which has been submitted to a city by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a preliminary or general development plan, a conditional or special use permit, a conditional or special use district zoning plan, or any other land-use approval designation as may be utilized by a city. Unless otherwise expressly provided by the City, such a plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific development plan under this section that would trigger a vested right shall be finally determined by the City pursuant to Article 13 of this Ordinance, and the document that triggers such vesting shall be so identified at the time of its approval. A variance shall not constitute a site-specific development plan, and approval of a site-specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site-specific development plan. (Source: NCGS § 160D-102.)

SKETCH PLAN- A sketch preparatory to the preliminary plat or site plan (or final plat or site plan in the case of minor subdivisions or conditional use permits) to enable the subdivider to save time and expense in reaching general agreement with the platting authority as to the form of the plat and the objectives of this Ordinance.

SLAUGHTERHOUSE - A building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage and/or sale of the product on the premises.

SLOPE - A vertical rise in feet measured over a horizontal distance, expressed as a percentage, measured generally at right angles to contour lines.

SLUDGE - Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects. (Source: NCGS § 130A-290)

SMALL WIRELESS FACILITY - A wireless facility that meets both of the following qualifications: a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet. B. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

SPINNER - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

SQUARE - Open space that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes, with landscape consisting of paved walks, lawns, trees, and monuments or public art.

SOLID MASONRY - Load-bearing or nonload-bearing construction using masonry units where the net cross-sectional area of cored brick in any plane parallel to the surface containing the cores shall be not less than 75 percent of its gross cross-sectional area. No part of any hole shall be less than 3/4 inch (19.1 mm) from any edge of the brick. Solid masonry units shall conform to ASTM C 55, C 62, C 73, C 145 or C 216. (Source: North Carolina State Building Code, Vol. VII, § 202).

SOIL SURVEY - The Soil Survey of Cabarrus County, North Carolina, published by the Soil Conservation Survey of the U.S. Department of Agriculture, dated September 1988, which document is hereby incorporated by this reference.

SOLID WASTE - Any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

1. Fecal waste from fowls and animals other than humans.
2. Solid or dissolved material in
 - a. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.
 - b. Irrigation return flows.
 - c. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92- 500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
4. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
5. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

(Source: NCGS § 130A-290)

SOLID WASTE DISPOSAL FACILITY - A facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste. (Source: NCGS § 159C-3)

SOLID WASTE DISPOSAL SITE - Any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method. (Source: NCGS § 130A-290)

SOLID WASTE MANAGEMENT FACILITY - Land, personnel and equipment used in the

management of solid waste. (Source: NCGS § 130A-290)

SOUND MANAGEMENT PROGRAM - A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS § 105- 277.2).

SPECIAL CONCERN SPECIES - Any species of plant in North Carolina which requires monitoring but which may be collected and sold under regulations adopted under the provisions of this Article. (Source: NCGS § 106-202.12)

SPECIAL FLOOD HAZARD AREA (SFHA) - The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

SPECIAL USE - A "special use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. A use is considered a special use if designated as such by the Use Matrix of Table 8.1.8.

SPECIFIC PLAN - A document encompassing a specific geographic area of the Governing Agency which is prepared for the purpose of specifically implementing the Comprehensive Plan by (1) refining the policies of the Comprehensive Plan to a specific geographic area; and (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The specific plan shall consist of goals, objectives and policies; requirements for capital improvements; the level of service required for public facilities; physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams and other appropriate materials showing existing and future conditions.

SPECIFIED ANATOMICAL AREAS - Means: 1.) Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or 2.) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Source: NCGS § 14-202.10)

SPECIFIED SEXUAL ACTIVITIES - Means: 1.) Human genitals in a state of sexual stimulation or arousal; 2.) Acts of human masturbation, sexual intercourse or sodomy; or 3.) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts. (Source: NCGS § 14-202.10)

SPINNER - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

SPOIL BANK - A deposit of excavated overburden or refuse. (Source: The Mining Act of 1971, NCGS § 74-49)

STABLE, COMMERCIAL - A stable of horses, mules, or ponies which are let, hired, used or boarded on a commercial basis and for compensation. This facility may offer equestrian lessons and may include a show arena and viewing stands. See § 8.3 of this Ordinance.

STABLE, PRIVATE - A detached accessory building for the keeping of horses, mules, or ponies owned by the occupants of the premises and not kept for remuneration, hire or sale.

STAFF - Unless otherwise indicated, the staff of the Planning Department.

START OF CONSTRUCTION - Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvements was within one hundred eighty (180) days of the permit date. The actual start means the first placement of a permanently-constructed structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STATE HIGHWAY - Street or highway on the State Highway System.

STATE HIGHWAY SYSTEM - The system of streets and highways as described in NCGS § 136-44.1. (Source: 19A NCAC § 20.0404).

STORM DRAINAGE FACILITIES - The system of inlets, conduits, channels, dikes and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

STORMWATER - The flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt. (Source: NCGS § 143-213)

STORMWATER COLLECTION SYSTEM - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

STORMWATER RUNOFF - The direct runoff of water resulting from precipitation in any

form. (Source: 15A NCAC § 4A.0005).

STORY - That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

STORY ABOVE GRADE- Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is: (1) More than 6 feet (1829 mm) above grade plane; (2) More than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter; or (3) More than 12 feet (3658 mm) above the finished ground level at any point. (Source: North Carolina State Building Code, Vol. VII, § 202).

STREAM - A watercourse that collects surface runoff from an area of one square mile or greater. This does not include flooding due to tidal or storm surge on estuarine or ocean waters. (Source: NCGS § 143-215.52).

STREAM (CLASS I) - All rivers or streams shown on USGS Quadrangle maps as a solid blue line

STREAM (CLASS II) - all rivers or streams shown on USGS Quadrangle Maps as a dotted blue line or if not already classified as a Class 1 stream, identified as a stream on the NRCS soil survey map for Cabarrus County; or identified as a stream by a qualified stream classification professional as defined in subsection B.

STREAMER - A string or strip of miniature or full-size pennants or flags which may or may not be suspended between two points.

STREET - Any public thoroughfare, street, avenue, or boulevard which has been dedicated or deeded to the public for public use. (Source: North Carolina State Building Code, Vol. 1, § 201.3). Includes any Road.

STREET FRONTAGE - The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distance lot line intersecting the same street.

STREET LINE - A lot line dividing a lot from a street. (Source: North Carolina State Building Code, Vol. 1, § 202).

STREETSCAPE- Features added to a public street, that improve its physical appearance beyond the typical minimum requirements. Such improvements, may include street

trees, benches, public art, landscaping, textured pavement, decorative light poles, decorative street signs, etc.

STRIP DEVELOPMENT - A form of development characterized by the following:

1. the primary uses are commercial or retail in nature;
2. the development site takes direct access from an Arterial or Collector Road;
3. the site contains parking located above ground level and lying between the accessed roadway and the primary buildings; and
4. the site is characterized by substantial frontage along the road or roads from which it takes primary or secondary access, or by numerous access points along a roadway serving primarily retail and/or commercial uses.

STRUCTURAL ALTERATION - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or exterior walls.

STRUCTURE - Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground or anything as defined by the Building Code, including an edifice or building of any kind. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, landscaping materials or fences. Includes both permanent and temporary structures. For purposes of Section 4.7, "structure" shall also include a gas, liquid, or liquefied gas storage tank that is principally above ground.

STRUCTURE, MAIN OR PRINCIPAL - See "Building, Main or Principal."

STRUCTURE, PERMANENT - Anything constructed or erected within a required location on the ground or which is attached to something having location on the ground, including a fence or free-standing wall.

STRUCTURE, TEMPORARY - A moveable structure not designed for human occupancy or for the protection of goods or chattel, and not forming an enclosure, and placed on a parcel of land for a period of time equal to one (1) year or less.

STUB-OUT (STUB-STREET) - A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

SUBDIVIDE or "SUBDIVIDE LAND" - The act or process of creating a Subdivision.

SUBDIVIDER - Any Person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells,

leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

SUBDIVISION - All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definitions nor be subject to the regulations authorized by this part: (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 municipality as shown in its subdivision regulations. (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved. (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors; and (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

SUBGRADE - The foundation layer of a street.

SUBSIDIARY - A person who is directly, or indirectly through one or more intermediaries, controlled by another person.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUBSTANTIAL MODIFICATION - The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

1. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
2. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
3. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
- 4.

SUPERSTORE - A retail structure or group of structures have a total of in excess of twenty-five thousand (25,000) square feet of Gross Floor Area.

SURFACE, IMPERVIOUS - See Impervious Surface.

SURVEYOR - A land surveyor registered by the State of North Carolina.

SWALE - An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales direct storm water flows into primary drainage channels and allow some of the storm water to infiltrate into the ground surface.

SWIMMING POOL, PRIVATE - A pool established or maintained on any premises by an individual for use by his/her family or guests of his/her household.

SWINE FARM - A tract of land devoted to raising 250 or more animals of the porcine species. (Source: NCGS § 106-802, Swine Farm Siting Act)

SWINE HOUSE - A building that shelters porcine animals on a continuous basis. (Source: NCGS § 106-802, Swine Farm Siting Act)

TATTOO PARLOR - Any location where tattooing is engaged in or where the business of tattooing is conducted or any part thereof.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET - A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

T-SHAPED SIGN - A portable sign comprised of one or more panels or faces joined at the bottom to a perpendicular base on which the sign stands.

TELEVISION, RADIO AND FILM STATION - A facility for the production of films and/or the production and broadcast of television and radio programs including but not necessarily limited to: offices, dressing rooms, studios, sound stages, file rooms, and set stage, but not including transmitting facilities.

TEMPERATURE CONTROLLED - having the temperature regulated by a heating and/or cooling system, built-in or appliance.

TEMPORARY - Unless otherwise specified, for a period of time less than or equal to one (1) year.

TEMPORARY SIGN - A sign advertising a special event and not intended to be displayed on a permanent basis.

TEN-YEAR STORM - The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (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. (Source: 15A NCAC 2H.1002; Sedimentation Control Standards).

THOROUGHFARE - A Major or Minor Thoroughfare or an arterial or collector street as identified on the Thoroughfare Plan.

THOROUGHFARE PLAN - The document entitled Cabarrus - South Rowan Urban Area Transportation Plan prepared by the Statewide Planning Branch, Division of Highways, North Carolina Department of Transportation and dated October 1997 (or newer edition as amended), which document is hereby incorporated by this reference.

THREATENED SPECIES - Any resident species of plant which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, or one that is designated as threatened by the Federal Fish and Wildlife Service. (Source: NCGS § 106-202.12)

THROUGH LOT- See "Lot, Through."

TIME SHARE - A "time share" as defined in NCGS 93A-41(9).

TIRE COLLECTION SITE - A site used for the storage of scrap tires. (Source: NCGS § 130A-309.53)

TIRE PROCESSING SITE - A site actively used to produce or manufacture usable materials, including fuel, from scrap tires. (Source: NCGS § 130A-309.53)

TOBACCO AND HEMP RETAIL - means the principal sales and distribution of:

- Any product that contains tobacco or nicotine, irrespective of whether the nicotine is tobacco-derived or synthetic, and is intended for human consumption, as defined by G.S. § 14-313(4). As used this subchapter, "tobacco product" includes but is not limited to: cigarettes, cigars, pipe tobacco, electronic cigarettes, hookah, smoked or vaped tobacco substitutes, chewing tobacco, snuff, snus, dissolvable tobacco products, and heated tobacco products. This tobacco product definition does not include nicotine replacement products approved by the USFDA for treatment of Tobacco use and dependence.

- Any product that contains tetrahydrocannabinol (THC), regardless of whether the THC is hemp-derived or synthetic. Products that contain no greater than .3 percent THC are exempt.
- Any product that contains *Mitragyna speciosa*, commonly known as kratom.
- Any electronic device that delivers nicotine, THC or other substances to the person inhaling from the device, including but not limited to, an electronic cigarette, electronic cigar, electronic pipe, vape or electronic hookah.
- Tobacco and hemp retail shall also mean any person who primarily sells, offers for sale, or does or offers to exchange any form of consideration, tobacco, tobacco products, or tobacco paraphernalia.

TOTAL PERMISSIBLE DWELLING UNITS OR SQUARE FOOTAGE - The total density or intensity of a project computed pursuant to Article 7 of this Ordinance.

TOWNHOUSE - A single-family dwelling unit constructed in a series, group or row of attached units separated by property lines and with a yard on at least two sides. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202). The term "townhouse" also includes a single-family dwelling constructed in a series or group of attached units with property lines separating each unit. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

TOWNHOUSE, STACKED - Units that are stacked on each other; units may be multilevel; all units have direct access from the outside.

TOXIC WASTE - That waste, or combinations of wastes, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformities, in such organisms or their offspring. (Source: NCGS § 143-213)

TRACT - All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TRAIL - Any paved greenway, unpaved greenway, or wildlife/botanical greenway dedicated to public use. The term "trail" includes:

1. Park trail. -- A trail designated and managed as a unit of the North Carolina

- State Parks System under NCGS Chapter 113, Article 2C.
2. Designated trail. -- A trail designated by the Secretary pursuant to this Article as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.
 3. A State scenic trail, State recreation trail, or State connecting trail under NCGS 113A-86 when the intended primary use of the trail is to serve as a park trail or designated trail.
 4. Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a trail that is not designated by the Secretary as a component of the State trails system

(Source: North Carolina Trails System Act, NCGS § 113A-85)

TRANSFER STATION, HAZARDOUS - A facility used for storage of non-hazardous waste for a period of less than ninety (90) days.

TRANSIENT - Housing or accommodations which are typically occupied by residents for periods of two (2) weeks or less, including, but not limited to, hotels, motels and travel lodges.

TRANSIT SYSTEM - The property, equipment and improvements of whatever nature owned, used, constructed, maintained, controlled or operated to provide mass transportation for passengers or to provide for the movement of people, including park-and-ride stations, transfer stations, parking lots, malls, and skyways.

TRANSIT STATION - Any Structure or Transit Facility that is primarily used, as part of a Transit System, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

TRANSIT FACILITY - All real and personal property necessary or useful in rendering transit service by means of rail, bus, water and any other mode of travel including, without limitation, tracks, rights of way, bridges, tunnels, subways, rolling stock for rail, motor vehicles, stations, terminals, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service.

TRANSIT TERMINAL - A commercial or public facility for the loading and unloading of passengers, luggage, and packages, including sales of fares, and which may include accessory restaurants, indoor commercial amusements, and retail sales, but not including airports.

TRANSMISSION LINES - Electric lines (115 KV and over) and appurtenant facilities, or pipelines/conveyors (ten (10) inches diameter or larger) and appurtenant facilities for transporting natural resources, chemicals, petroleum derivatives, or waste substances.

TRAVEL TRAILER - A vehicle or portable unit mounted on its own chassis and wheels which does not exceed eight feet (8') in width and/or forty feet (40') in length, is drawn by a motor vehicle, and provides temporary living quarters for recreational, camping or travel use.

TREATMENT WORKS - Any plant, septic tank disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned herein, installed for the purpose of treating, equalizing, neutralizing, stabilizing or disposing of waste. (Source: NCGS § 143-213).

TRIPLEX - A building which contains three dwelling units, each of which has direct access to the outside or to a common hall.

TRUCK CAMPER - A portable unit consisting of a roof, floor and sides designed to be loaded onto, and unloaded from, the bed of a pickup truck, and provides temporary living quarters for recreational, camping or travel use.

TRUCK AND MULTI-MODAL TERMINAL - A facility for truck loading and unloading and cargo storage.

TRUCK PARKING AREA - An area for the parking of trucks which are often left with either their motors running and/or their refrigerator unit motors operating.

TWENTY-FIVE YEAR STORM - The surface 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.

UNCOVERED - The removal of ground cover from, on, or above the soil surface.

UNDERGROUND PRESSURIZED IRRIGATION SYSTEM - A watering system for landscaped areas, consisting of underground pressurized pipes connected to sprinkler heads, bubbler heads, or drip systems such that one hundred percent (100%) irrigation water coverage is provided.

UNDERLYING DISTRICT or UNDERLYING ZONING DISTRICT- A standard zoning district classification which is combined with an overlay district for purposes of development regulation specificity. The base (underlying) district regulations shall apply unless expressly superseded by overlay district provisions.

UNIQUE OR SPECIAL AREAS PARKS - Any unique or special area as defined in the Cabarrus County Parks and Recreation Master Plan, at 4-8.

UNSUITABLE OR UNSTABLE SLOPE - An area susceptible to a landslide, a mudflow, a rockfall or accelerated creep of slope-forming materials.

UNUSABLE LAND - Unusable land shall mean:

1. Any land where building construction is prohibited (such as wetlands, stream buffers, dedicated easements and rights-of-way, except those existing only to protect underground utilities such as water lines or sewer lines, etc.) as determined by the Administrator; or
2. Land with a post-development slope greater than 3:1; or
3. Land farther than ½ mile from a lot included in the development.

UPZONING - The reclassification of land from a Residential to a Non-residential Zoning District, or to a Zoning District which permits greater density or intensity than the current zoning classification of the property.

USE - The purpose or purposes for which land or a building is occupied, maintained, arranged, designed, or intended.

USE, APPROVED - Any use that is or may be lawfully established in a particular district or districts, provided that it conforms with all requirements of these regulations for the district in which such use is located.

USE MATRIX - The schedule of permitted uses, conditional uses and accessory uses within each zoning district set forth in Table 8.1.8 of this Ordinance.

USE PERMITS - Approval, with appropriate stipulations, by the Governing Agency after public hearing of a use, structure, condition or manner of operation in conjunction with an otherwise permitted use which, by ordinance, requires the property owner or applicant to obtain such a permit.

USE, QUASI-PUBLIC - Uses which are considered to be dedicated to public service or to culture. These uses include, for the purposes of this Code, public, schools, hospitals, universities and churches.

USE, TEMPORARY - A use that is established for one (1) year or less, with the intent to discontinue such use upon the expiration of such time, and that does not involve the construction or alteration of any permanent structure. See § 8.1.8 of this Ordinance.

USE, VARIANCE - A variance as to the permissible use of land, including a variance that in effect grants a development permit. A use variance is not permitted under North Carolina law.

USED OIL RECYCLING FACILITY - Any facility that recycles more than 10,000 gallons of used oil annually. (Source: NCGS § 130A-290)

UTILITIES - Services and facilities provided by public agencies and public monopolies such as electrical and gas service, water (domestic and irrigation), sewage disposal, drainage systems, and solid waste disposal.

UTILITY FACILITIES - Buildings, structures, or land used by a utility, railroad, or governmental agency for uses such as, but not necessarily limited to, water or sewage treatment plants or pumping stations, substations, telephone exchanges, and resource recovery facilities, but not including land, buildings, or structures used solely for storage and maintenance of equipment and materials.

UTILITY POLE - A structure that is designed for and used to carry lines, cables, or wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

UTILITY SERVICE YARDS - Buildings, structures or land used by a utility, railroad, or governmental agency solely for the purpose of storing and maintaining equipment and materials.

VALANCE - A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

VARIANCE - A grant of relief from the requirements of this Ordinance which permits construction in a manner that would otherwise be prohibited by this Ordinance.

VEGETATIVE BUFFER- An area of natural or established vegetation directly adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation, as more defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

VEGETATIVE FILTER - An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner, so that runoff does not become channelized, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

VEGETATIVE GROUND COVER - Wood bark, shredded or chipped wood (installed over an adequate mat of fabric weed barrier), sod, or live plants.

VEHICLE - Any self-propelled device in, upon, or by which any person or property may be transported upon a public highway excepting devices moved by human power or used exclusively upon stationary rails or tracks.

VEHICLE, ABANDONED OR JUNK - A vehicle or any major portion thereof which is incapable of movement under its own power and will remain without major repair or reconstruction.

VEHICLE, COMMERCIAL - Any motor vehicle with a manufacturer's chassis rating greater than one ton.

VEHICLE, MOTOR - A device, in, upon or by which any person or property is or may be transported or drawn upon a road of highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles. For the purpose of these regulations "motor vehicles" are divided into two (2) divisions:

1. First Division: Those motor vehicles which are designed for the carrying of not more than ten (10) persons.
2. Second Division: Those motor vehicles which are designed for carrying more than ten (10) persons, those designed or used for living quarters, and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the first division remodeled for use and used as motor vehicles of the second, and those motor vehicles of the first division used and registered as school buses. All trucks shall be classified as motor vehicles of the second division.

VEHICLE SIGN - See Portable Sign.

VERY LOW INCOME HOUSING - Dwelling units reserved for occupancy or ownership by persons or households whose annual gross income does not exceed fifty percent (50%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

VESTED RIGHT- The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan for a specified time, regardless of changes in this Ordinance. (Source: NCGS § 160D-102 et seq.)

VETERINARIAN - A facility or establishment rendering surgical and medical treatment to animals, which may include overnight accommodations for purposes of recovery or boarding. For the purpose of these regulations, small animals shall be deemed to be ordinary household pets, excluding horses, donkeys, or other such animals not normally housed or cared for entirely within the confines of a residence. Crematory

facilities shall not be allowed in a veterinarian establishment.

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 1.5 is presumed to be in violation until such time as that documentation is provided.

WALL, EXTERIOR - A wall, bearing or nonbearing, which is used as an enclosing wall for a building, other than a party wall or fire wall. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

WALL SIGN - A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

WAREHOUSING AND DISTRIBUTION, GENERAL - An establishment offering indoor or open-air storage and distribution and handling of materials and equipment, such as vehicle storage, monument or stone yards, grain elevators, or open storage yards.

WAREHOUSING AND STORAGE - Buildings used for the rental of space to the public for the storage of merchandise, commodities or personal property and where access is under the control of the building management, but excluding the warehousing and storage of explosive, corrosive noxious materials, such as dust, fumes or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties.

WASTE-RELATED USE- Any of the following, (see Use Matrix and this Article for rules of interpretation: Concentrated Animal Feeding Operation or Animal Production; Demolition Landfill; Hazardous Waste facility; Land Clearing and Inert Debris Landfill; Materials Recovery Facility; Salvage Yard; Septic and Other Waste Management Service; Slaughter House; Solid Waste Disposal Facility (including any Landfill, Incinerator or Combustor); Hazardous Waste Collection facility; or Nonhazardous Waste Collection facility.

WASTEWATER- Any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system. (Source: NCGS § 130A-334).

WASTEWATER COLLECTION SYSTEM - A unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit. (Source: NCGS § 159G-3).

WASTEWATER FACILITIES - Structures or systems designed for the collection, transmission, treatment or disposal of sewage and includes trunk mains, interceptors, and treatment plants, including package treatment plant and disposal systems, and on-site septic systems.

WASTEWATER SYSTEM - A system of wastewater collection, treatment, and disposal in single or multiple components, including a privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. (Source: NCGS § 130A-334).

WATERCOURSE - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

WATER DEPENDENT STRUCTURES - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

WATER FACILITIES - Systems or structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, storage facilities, and transmission and distribution mains.

WATER POLLUTION - The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the waters of the State, including, but specifically not limited to, alterations resulting from the concentration or increase of natural pollutants caused by man-related activities. (Source: NCGS § 143-213).

WATER POLLUTION CONTROL FACILITY - Any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, testing, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which shall have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution. (Source: NCGS § 159C-3).

WATER POLLUTION CONTROL SYSTEM - A system for the collection, treatment, or disposal of waste for which a permit is required under rules adopted by either the North Carolina Environmental Management Commission or the Commission for

Health Services. (Source: NCGS § 90A-46).

WATER SUPPLY SYSTEM - A public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures. (Source: NCGS § 159G-3).

WATER SURFACE ELEVATION (WSE) - The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATER SYSTEM - All plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water or the control and drainage of stormwater runoff and any integral part thereof, including but not limited to water supply systems, water distribution systems, structural and natural stormwater and drainage systems of all types, sources of water supply including lakes, reservoirs and wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves, and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. (Source: NCGS § 162A-2).

WATER SYSTEM IMPROVEMENTS OR SEWER SYSTEM IMPROVEMENTS - Such repairs, replacements, additions, extensions and betterments of and to a water system or a sewer system as are deemed necessary by the authority to place or to maintain such system in proper condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the authority and for which no existing service is being rendered. (Source: NCGS § 162A-2).

WATER TOWER - A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

WATER TREATMENT FACILITY - Any facility or facilities used or available for use in the collection, treatment, testing, storage, pumping, or distribution of water for a public water system. (Source: NCGS § 90A-20.1).

WATERS - Any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows

through, or borders upon any portion of the City. (Source: NCGS § 143-212).

WATERSHED - A natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the North Carolina Environmental Management Commission. (Source: NCGS § 143-213).

WATERSHED COMMISSION - The Cabarrus County Watershed Improvement Commission.

WET DETENTION POND - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

WETLAND - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands shall be designated in accordance with the Corps of Engineers Wetlands Delineation Manual (United States Department of Commerce, National Technical Information Service, January 1987). Copies of the Wetland Delineation Manual may be obtained by contacting the National Technical Information Service.

WIND-DRIVEN SIGN - Consists of one (1) or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons or other objects or materials designed or intended to move when subject to pressure by wind or breeze and by that movement attract attention and function as a sign (see definition of SIGN).

WINDOW SIGN - A sign which is applied to the building glass area located such that the identifying/advertising message, symbol, insignia, visual representation, logotype or any other form which communicates information can be read from off-premise.

WINERY/CIDERY - An establishment engaged in the production and distribution of wine, cider, and other fermented fruit beverages. The establishment may include uses permitted in the district in accordance with state and local laws.

WINERY/CIDERY-MICRO - An establishment engaged in the production and distribution of wine, cider, and other fermented fruit beverages with a capacity not to exceed 1,000 gallons per year. The establishment may include areas for demonstration, education, tasting, and other uses permitted in the district, in accordance with state and local laws.

WIRELESS FACILITY - Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers,

antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

1. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
2. Wireline backhaul facilities.
3. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS INFRASTRUCTURE PROVIDER - Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

WIRELESS PROVIDER - A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES - Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER - A person who provides wireless services

WIRELESS SUPPORT STRUCTURE - A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure.

WOODLAND - All forest areas, both timer and cut-over land, and all second-growth stands on areas that have at one time been cultivated. (Source: NCGS § 113-57)

YARD - An open unoccupied space, other than a Court, unobstructed from the ground to the sky, on the Lot on which a Building is situated. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII. § 202)

YARD, FRONT - A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection thereof, other than steps, unenclosed balconies and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

YARD, REAR - A yard extending between the side yards of a lot or between the side lot lines in the absence of side yards, and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. On corner

lots and interior lots the rear yard is in all cases at the opposite end of the lot from the front yard.

YARD, REQUIRED - The minimum open space as specified by the regulations of this Ordinance for front, rear and side yards, as distinguished from any yard area in excess of the minimum required. See "Buildable Area."

YARD, SIDE - A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building. This side yard definition may apply for three sides of a flag lot if the flag pole portion of the lot exceeds the front yard setback. Where a lot has sufficient land area, the side yard may exceed the minimum side setback as specified in § 7.6.2 B of this Ordinance. (See Figure in definition of "required setback.") An interior side yard is defined as the side yard adjacent to a common lot line.

YARD SETBACK - The minimum horizontal distance between any building and the property line.

ZERO LOT LINE - The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ZONING CLEARANCE - The issuance of a permit or authorization by the Zoning Inspector indicating that a proposed building, structure or use of land meets all of the standards, criteria, procedures and requirements contained in this Ordinance.

ZONING DISTRICT - Any portion of the area of the City in which the same Zoning regulations apply.

ZONING INSPECTOR - The Administrator or his duty authorized representative.