City of Morganton

Zoning Ordinance

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ARTICLE 1
ADMINISTRATION, PROCEDURES & ENFORCEMENT

Article 1 Contents

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1.1 Title

This Ordinance shall be known as the "Zoning Ordinance" of the City of Morganton, North Carolina and may be referred to as the "Zoning Ordinance". The maps referred to herein are identified by the title "Official Zoning Map, Morganton, North Carolina," and may be known as the "Zoning Map."

1.2 Purpose

(A) The zoning regulations incorporated herein and the zoning districts shown on the zoning map have been made in accordance with the Mission 2030 Plan, and are designed to:

(1) lessen congestion in the streets;

(2) secure safety from flooding, fire, panic and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the improper use of land;

(6) avoid undue concentration of population; and

(7) facilitate the adequate provision of transportation, public utilities, recreation and other public requirements.

(B) The City Council has determined that there is a factual basis for believing that some or all of the conditions noted above may result from the lack of zoning regulations and the Council has given due consideration to the character of each zoning district, its suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City and its perimeter area.

1.3 Authority and Interpretation

1.3.1 Definition of Zoning

(A) Zoning is the process by which an area is divided into various districts, each of which is specifically intended for different uses and intensity of uses and within which the use of land and buildings, the height and dimension of buildings, the size of required yards and the population density are regulated.

(B) Further, the regulations are to be made with reasonable consideration, among other things, to the character of the district and its unique suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City's jurisdiction.

1.3.2 Zoning District Authority

(A) In accordance with the requirement of NCGS 160A-382 that zoning regulation be by districts, the City, as shown on the Zoning Map accompanying this Ordinance, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

(B) Zoning divides a City's territorial jurisdiction into districts, or zones, of any number, shape and area that may be deemed best suited to carry out the purposes of NCGS 160A-382. Within those districts, the municipality may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations must be uniform for each class or kind of building throughout each district, but the regulations in one (1) district may differ from those in other districts.

1.3.3 Zoning Map

(A) For the purposes of this Ordinance, the City of Morganton is hereby divided into zoning districts whose locations and boundaries are shown on the Official Zoning Map for the City of Morganton which is hereby adopted by reference and declared to be a part of this Ordinance.

(B) This Zoning Map and all the notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the City Hall and is available for inspection by the public.

(C) The Administrator or his representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the City Board that a zoning change has been made, the Administrator shall make the necessary changes on the Official Zoning Map.

(D) Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation:

(1) Centerline

Where a boundary line lies within and follows a street or alley right-of-way, railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-right, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts. If such right-of-way is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street or utility easement.

(2) Edge Line

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street or utility easement.

(3) Lot Line

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

(4) City Limits

Boundaries indicated as approximately following City limits or extraterritorial boundary lines shall be construed as following the City limits or extraterritorial boundary lines.

(5) Watercourses

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

(6) Extensions
Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, City limits, county lines, or extraterritorial boundaries shall be so construed.

(7) Scaling
In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.

(E) Where the Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are different than those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret Zoning district boundaries.

1.4 Applicability

1.4.1 Jurisdiction

For the purposes of this Zoning Ordinance, the zoning jurisdiction of the City shall include the land within the corporate limits of the City and that land located between these limits and the boundaries established in the municipal ordinance establishing extraterritorial jurisdiction (ETJ) boundaries.

1.4.2 Exemptions to Applicability

(A) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted. Any preliminary or final development plat approvals required for such approved and exempted site specific plans shall be conducted in accordance with the requirements of the Zoning Ordinance or Subdivision Ordinance under which they were approved.

(B) In accordance with NCGS 160A-360(k), property that is located in the extraterritorial jurisdiction (ETJ) and that is used for bona fide farm purposes is exempt from zoning regulations. Property that is located in the ETJ and that ceases to be used for bona fide farm purposes shall become subject to zoning regulations.

(C) Properties with existing Conditional Use District zoning shall retain their existing zoning with all conditions as approved unless the property owner requests a map amendment to one of the zoning designations as set forth in this Ordinance.

1.4.3 Minimum Regulations

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the more restrictive or higher standards shall govern.

1.4.4 Incorporation of Zoning Map

The "Official Zoning Map, Morganton, North Carolina" and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this Ordinance.

1.5 Abrogation and Separability

(A) It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, water supply watershed regulations, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

(B) If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it has passed this Ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, or phrases be declared invalid.

1.6 Conformance with Adopted Plans and Right-of-Way Dedication

(A) In accordance with the requirement of NCGS 160A-383, the regulations adopted pursuant to this Ordinance shall be consistent with the comprehensive Mission 2030 Plan and any specific plans adopted by the City Council. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans and any other adopted plans.

(B) When a proposed development includes any part of a thoroughfare which has been designated as such upon the officially adopted Comprehensive Transportation Plan, such thoroughfare right(s)-of-way shall be dedicated and constructed by the developer(s) as shown on the plan. Where such right-of way does not currently exist, the developer shall be required to dedicate the necessary right-of-way on the development side of the street.

1.7 Vested Rights and Development Agreements

1.7.1 Purpose and Authority

(A) Pursuant to NCGS 160A-385.1 and not withstanding any other provision of this Ordinance or amendment thereto, a vested right shall be deemed established with respect to any property upon the valid approval of a site specific development plan or a phased development plan. Such vested right shall confer upon the landowner(s) the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan or the phase development plan including any amendments thereto.

(B) Upon application, the Board of Adjustment may approve extended zoning vested rights up to five (5) years for a site specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such approval shall result in an extended vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Board of Adjustment shall not require a landowner to waive his vested rights as a condition of developmental approval. A site specific development plan or a phase development plan shall be deemed approved upon the effective date of the Board's action.

1.7.2 Application and Consideration

(A) An application for an extended zoning vested right for between two (2) and five (5) years shall be submitted to the Zoning Administrator in the Development and Design Services Department. All information requested on the application form shall be accurately set forth and the date and time of receiving the application shall be noted on the application.

(B) A nonrefundable processing fee in the amount set forth in the schedule of fees as adopted by the City Council, shall be due and payable upon submission of the

application. The landowner shall attach to his application a site specific development plan.

(C) A site specific development plan meeting the requirements of the Subdivision Ordinance, for subdivisions, or Section 2.2.3.3 of this Ordinance, for site plans, as applicable, shall be submitted. Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation:

"Approval of this plan establishes a zoning vested right under NCGS 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until _____."

(D) Before acting on the application for an extended vested right, the Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be posted on the property and shall be published in a newspaper having general circulation in the area of Morganton at least 10 days but not more than 25 days before the date fixed for the hearing.

1.7.3 Approval and Establishment of Vested Rights

(A) Following the public hearing, an extended zoning vested right shall be deemed established upon approval by the Board of Adjustment of the site specific development plan. The action taken by the Board of Adjustment to approve the plan shall be in the form of an order and the vested rights shall thereafter confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site specific development plan, including any amendments thereto; however, in approving the site specific development plan, the Board of Adjustment may attach such terms and conditions to its approval as may be reasonably necessary to protect the public health, safety and welfare and to ensure further compliance with building codes and other development standards. Any plan approved pursuant to this section shall be deemed to be approved subject to the further requirements set forth below:

(1) Approval of a site specific development plan upon the condition that a variance be obtained, shall not confer a zoning vested right unless and until the necessary variance is obtained.

(2) The establishment of a zoning vested right shall not preclude the application of overlay zonings that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulations by the City including but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to

a site specific development plan upon the expiration or termination of the vested right in accordance with this Section.

(3) A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors in title to the original landowner shall be entitled to exercise such right during the applicable period.

(4) The landowner shall 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.

(5) Following approval or conditional approval of a site specific development plan, nothing in this Section shall exempt such a plan from subsequent review and approvals to ensure compliance with the terms and conditions of the original approval provided that such reviews and approvals are not inconsistent with the original approval.

(6) Nothing in this chapter shall prohibit the renovation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the Zoning Ordinance.

(7) A zoning vested right that has been vested as provided in this Section shall remain vested for a period of two (2) to five (5) years, where warranted in light of all the relevant circumstances, including, but not limited to, the size of the development, the level of the investment, the need for or desirability of the development, economic cycles and market conditions. These determinations shall be made in the sound discretion of the Board of Adjustment or the City Council at the time the site specific development plan is originally approved.

(8) Upon issuance of a building permit the expiration provisions of NCGS 140A-418 and the renovation provisions of NCGS 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running time while a zoning vested right under this section is outstanding.

(B) The Board of Adjustment or the City Council shall approve the plan with or without conditions, if the use anticipated is a permitted use, classification and if the plan substantially complies with all other land use regulations and development criteria in effect on the date of the approval. If the plan does not comply with applicable regulations but can be brought into compliance with minor changes, then the Board of Adjustment or the City Council shall conditionally approve the plan. Any conditional approval shall note all required changes in the plan to bring it into compliance or otherwise assure compliance during the development process. The

action taken by the Board of Adjustment or the City Council to approve a plan shall clearly identify any additional conditions attached to such approval. Such conditions may require the landowner to obtain other necessary permits, both local, federal or state, require specific soil and erosion controls, traffic control plans, specific buffer or screening requirements, or other similar conditions designed to protect the value of adjacent property and to promote or improve the general health, safety and welfare of the public.

(C) The Board of Adjustment shall deny any approval of a site specific development plan if the plan anticipates uses which are not permitted in the particular zoning classification or if the plan does not substantially comply with other applicable land use regulations and development requirements and cannot reasonably be brought into compliance by amendments to the plan or if the plan poses a danger to the public health, safety and welfare. The plan shall include necessary findings of facts and conclusions to support the denial.

(D) Upon request of the applicant, the Board of Adjustment may approve an extended vesting period of between two (2) years and five (5) years from the date of approval.

(E) This Section shall not apply to development agreements approved in accordance with NCGS 160A-400.2-32 which may be approved by the City Council.

1.7.4 Subsequent Changes and Termination

(A) A vested right, once established as provided in this chapter, precludes any zoning action by a 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 except to the extent permitted in this chapter and consistent with NCGS 160A-385.1.

(B) A zoning right that has been vested as provided in this chapter shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(2) With the written consent of the affected landowner;

(3) Upon findings by the Board of Adjustment or the City Council, by ordinance or order after notice and public hearing, that natural or manmade 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;

(4) Upon payment to the affected landowner of compensation for all costs, expenses or other losses incurred by the landowner, including but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal or other consultant 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;

(5) Upon findings by the Board of Adjustment, by ordinance after notice and hearing, that the owner or his representative intentionally supplied inaccurate information or made material misrepresentations which make a difference in the approval by the Board of Adjustment of the site specific development plan; or

(6) Upon enactment or promulgation of a state or federal law regulation that precludes development as contemplated in the site specific development plan in which case the approval authority may modify the affected provisions, upon a finding that the change in law has a fundamental effect on the plan, by ordinance after notice and hearing.

1.7.5 Voluntary Annexation

A petition for annexation filed with the City shall contain a signed statement declaring whether or not any zoning vested right with respect to the property subject to the petition has been established under NCGS 160A-385.1 or 153.344.1. A statement that declares that no zoning vested rights has been established under NCGS 160A-385.1 or 153.344.1 or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner and any zoning vested right shall be terminated.

1.7.6 Development Agreements

Development Agreements may be approved by the City Council in accordance with NCGS 160A-400.2-32.

1.8 Effective Date

These regulations shall become effective on January 1, 2015. Upon such date, these regulations shall supersede, repeal and replace the City of Morganton Zoning Ordinance. The amendments to the City's Zoning Map which remove from and relinquish jurisdiction over certain areas outside the City's corporate limits over which the City previously exercised extra-territorial jurisdiction under Article 19 of Chapter 160A of the North Carolina General Statutes shall take effect sixty (60) days after the date of adoption of this Ordinance, or on such earlier date on which the County of Burke shall adopt zoning and land use regulations governing the areas over which the City has relinquished extra-territorial jurisdiction.

ARTICLE 2
ADMINISTRATION, PROCEDURES & ENFORCEMENT

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2.1 Administration

The purpose of this Section is to set forth the powers and duties of the Zoning Administrator, Technical Review Committee, Planning & Zoning Commission, Board of Adjustment, and City Council as they relate to this Ordinance.

2.1.1 Zoning Administrator

(A) The position of Zoning Administrator is hereby authorized and it shall be the duty of the Development and Design Services Director or designee within the Development and Design Services Department to interpret, apply and enforce the provisions of this Ordinance in accordance with the terms hereof. The Zoning Administrator may provide written interpretations, and may issue such permits, orders and take such other actions as may be required by the City Council in its discretion in enforcing this Ordinance.

(B) The Zoning Administrator may be referred in the Ordinance as "Development and Design Services Director", "Development and Design Services Department", or "Development and Design Services Department Staff".

(C) The Development and Design Services Department shall maintain a record of all Zoning Permits, development approvals, and ordinance amendments on file in the Planning office, and copies shall be made available on request to interested parties.

(D) The Zoning Administrator shall issue Zoning Permits, Site Plan Notices to Proceed, and Certificates of Zoning Compliance as prescribed herein.

(E) The Development and Design Services Department staff shall serve as clerk to the Board of Adjustment and Planning & Zoning Commission.

2.1.2 Technical Review Committee

(A) The Technical Review Committee (TRC) is hereby established in order to assist the Development and Design Services Director with the review of site development plans for zoning permits other than single-family and two-family residential development. The TRC shall consist of the following entities or designees:

(1) Development and Design Services Director or Designee

(2) City Engineer

(3) Public Works Director

(4) Water Resources Director

(5) Fire Inspector

(6) Public Safety Director

(7) Chief Building Inspector

(8) NCDOT representative

(9) Other local, state, or federal agencies that have an interest in the proposed development

(B) The TRC shall meet on an as needed basis as determined by the Development and Design Services Director.

2.1.3 Planning & Zoning Commission

2.1.3.1 Establishment and Composition

(A) There is hereby created a Planning & Zoning Commission. The Planning & Zoning Commission shall consist of 11 members, nine (9) of whom shall be appointed by the City Council. The remaining two (2) members shall be appointed by the Burke County Board of Commissioners.

(B) Appointments made by the City Council shall be residents of either the City and/or the ETJ to be regulated provided that no more than two (2) of the total City appointments may be residents of the ETJ to be regulated. The two (2) appointments made by the County Commissioners may be residents of the ETJ and must be residents of Burke County.

(C) All members, including those representatives appointed to the Planning & Zoning Commission from the perimeter area or the area within the jurisdiction of the Planning & Zoning Commission, but outside the corporate limits of the City of Morganton, shall have equal rights, privileges and duties, and such outside representatives shall fully participate in and vote on all matters at issue before the Planning & Zoning Commission regardless of whether the matter arises within the City or within the ETJ.

(D) The term of each member shall be three (3) years with the terms staggered so as to allow the appointment of new members each year. For the purposes of this section, the City Council shall have the authority to designate the expiration date for all new appointments to the Planning & Zoning Commission to allow staggered terms and may reduce the size of the Commission as required hereunder by not filling an existing vacancy.

(E) Vacancies occurring on said Planning & Zoning Commission shall be filled by the City Council or County Commissioners for the remaining portion of the unexpired term.

(F) All members so appointed shall serve without compensation.

2.1.3.2 Rules of Procedure

(A) The Planning & Zoning Commission shall prescribe rules and regulations and by-laws for the conduct of its meetings and other proceedings.

(B) The Planning & Zoning Commission shall keep a full record of its proceedings and minutes of its meetings showing the business transacted at each meeting, and shall submit copies thereof to the City Manager.

(C) The Planning & Zoning Commission shall select from its membership a chairman and vice chairman to serve for a period of one (1) year, or until their successors are elected.

(D) Regular meetings of the Commission shall be held at such times and places as the Commission shall determine, and special meetings of the Commission shall be held upon call of the chairman at such time and place as he may designate, reasonable notice of such meeting being given to each member.

2.1.3.3 Powers and Duties

The Planning & Zoning Commission is created to carry out the powers and duties as provided for in NCGS 160A-361. The Planning & Zoning Commission shall serve in an advisory capacity to the City Council and shall provide recommendations to the Council pertaining to zoning amendments and other matters as designated in NCGS 160A-361 including:

(A) To make studies of the City and surrounding areas;

(B) To determine objectives to be sought in the development of the City;

(C) To propose and recommend plans for achieving these objectives;

(D) To develop and recommend to the City Council policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;

(E) To advise the City Council concerning the use and amendment of means for carrying out plans;

(F) To designate redevelopment areas; and

(G) To review and approve alternative design plans as set forth in Section 2.2.

2.1.4 Board of Adjustment

2.1.4.1 Establishment and Composition

(A) There shall be and hereby is created a Board of Adjustment consisting of five (5) members and three (3) alternate members, each member or alternate member to serve for a term of three (3) years.

(B) Four (4) of the members and two (2) of the alternate members shall be appointed by the City Council and shall reside within the corporate limits of the City. One (1) member and one (1) alternate member shall be appointed by the Board of Commissioners for Burke County, North Carolina, and may reside within the extraterritorial jurisdiction (ETJ) of the City and must reside within Burke County.

(C) Those regular and alternate members previously appointed by the City Council or the Board of County Commissioners and serving on the effective date of this Ordinance under the Zoning Ordinance prior hereto, shall continue in office and shall be considered as the duly appointed members and alternate of the Board and each shall serve the remainder of the term to which he was appointed.

(D) Alternate members may attend any regular or special meeting of the Board, but shall serve, participate and vote only in the absence of a regular member. During the absence of any regular member, and alternate member, regardless of his residency, shall have and may exercise all the powers and duties of a regular member.

(E) Regular members and alternate members appointed and serving as outside representatives from the perimeter area shall have equal rights, privileges and duties with all other members of the Board regardless of whether the matters at issue arise within the City or within the extraterritorial area.

2.1.4.2 Rules of Procedure

(A) The Board of Adjustment shall adopt and from time-to-time amend rules of procedure that are consistent with NCGS 160A-388 and govern election of officers, attendance, and meeting and voting procedures.

(B) Four (4) members shall constitute a quorum for Board business. Three (3) members shall be necessary to conduct other business including amending the rules of procedure.

(C) four-fifths (4/5) of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this

subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates to take the place of such members.

(D) The Board shall elect one (1) of its members as chairman, and shall appoint a secretary and such other subordinates as may be necessary to complete its work.

(E) All meetings of the Board shall be held at a regular place, and shall be open to the public. The Board shall keep minutes of its proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or any member's absence or failure to vote.

2.1.4.3 Powers and Duties

The Board of Adjustment shall have the following powers and duties:

(A) To hear and decide appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of the Zoning Ordinance.

(B) To interpret the intent of the Zoning Map as to the location of the zoning boundary lines as provided in the Zoning Ordinance.

(C) To authorize in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Article.

(D) To perform the powers and duties as set forth in the Watershed Ordinance or Phase II Stormwater Ordinance.

(E) To perform the powers and duties as set forth in the Flood Damage Prevention Ordinance.

(F) To hear and decide requests for extended zoning vested rights as set forth in Section 1.7.

(G) To hear and decide request for Certificates of Nonconformity Adjustment as set forth in Section 2.2.6.

(H) To serve as the Morganton Housing Appeals Board pursuant to NCGS 160A-446.

2.1.5 City Council

The City Council shall hold the following powers and duties related to this Ordinance:

(A) To review, hold public hearings and make decisions for Text Amendments and Map Amendments;

(B) To make decisions on all issues related to the Zoning Ordinance, Zoning Map, Comprehensive Plan and other land use plans which may be adopted from time to time;

(C) To decide upon alternate design plans set forth in Section 2.2.7;

(D) The duties of the City Council in connection with this Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in this Ordinance; and

(E) To enter into development agreements per NCGS 160A-400.2-32.

2.2 Procedures

2.2.1 Purpose

The purpose of this Section is to establish an orderly process to develop land within the City of Morganton. It is also the intent of this Section to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, City staff, related agencies, the Planning & Zoning Commission, Board of Adjustment and the City Council. Approved plans shall be the guiding documents for final approval and permitting.

2.2.2 Applicability

(A) The development review process applies to all new development and alterations of existing development within the City.

(B) The Zoning Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Zoning Administrator determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose. The following chart indicates the appropriate approval process for each development type:

TABLE 2.1: APPROVAL PROCEDURES

Approval Type	Section Reference	Administrative	Planning & Zoning Commission	Board of Adjustment	City Council
Zoning Permit with Plot Plan (single-family & two-family residential)	2.2.3.2	✓			
Site Development Plan Zoning Approval & Notice to Proceed (multi-family residential & nonresidential)	2.2.3.3	✓*			
Zoning Permit for Sign	2.2.3.4	✓			
Variance	2.2.4			✓	
Appeal	2.2.5			✓	
Certificate of Nonconformity Adjustment	2.2.6			✓	
Alternative Design	2.2.7		Recommendation		✓
Map Amendment	2.2.8		Recommendation		✓
Text Amendment	2.2.9		Recommendation		✓
Subdivision	See Subdivision Ordinance				
Floodplain Permit	See Flood Damage Prevention Ordinance				
Watershed Protection Permit	See Watershed Protection Ordinance				
Phase II Stormwater Permit	See Phase II Stormwater Ordinance				

*With review assistance from the Technical Review Committee.

2.2.3 Zoning Permits

2.2.3.1 General Provisions

(A) Except for agricultural purposes, no land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed, until a Zoning Permit shall have been issued by the Zoning Administrator stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

(1) Street construction or repair;

(2) Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way;

(3) Specific signs exempted in Article 5 of this Ordinance;

(4) Mailboxes, newspaper boxes, birdhouses, flag poles, pump covers and doghouses;

(5) Interior alterations and renovations which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure; and

(6) Fences and walls that meet the requirements of Section 4.4.9.

(B) No Building Permit shall be issued and no building shall be occupied until a Zoning Permit is approved.

(C) No grading shall commence for any development site without the issuance of a Zoning Permit as it relates to this Ordinance. Any such activity may be subject to enforcement and penalties as set forth in Section 2.3.

(D) A record of all Zoning Permits shall be kept on file in the office of the Development and Design Services Department and copies shall be furnished, on request.

(E) The Development and Design Services Department shall collect such fees for the issuance of Zoning Permits as are authorized by the fee schedule as adopted by the City Council.

(F) The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions

of such Permit provided that such action is authorized by the Permit is commenced within 180 days of issuance and provided that all other permits are obtained. Otherwise the Permit shall be void.

(G) If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial. (See Section 2.2.5)

(H) A Zoning Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

(I) Applications for a Zoning Permit will be accepted only from persons having the legal authority to take action in accordance with the permit. This means that applications should be made by the owners of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees). The Zoning Administrator may require an applicant to submit evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.

(J) All applications for Zoning Permits must be complete before the Zoning Administrator is required to consider the application. An application is complete when it contains all the information necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.

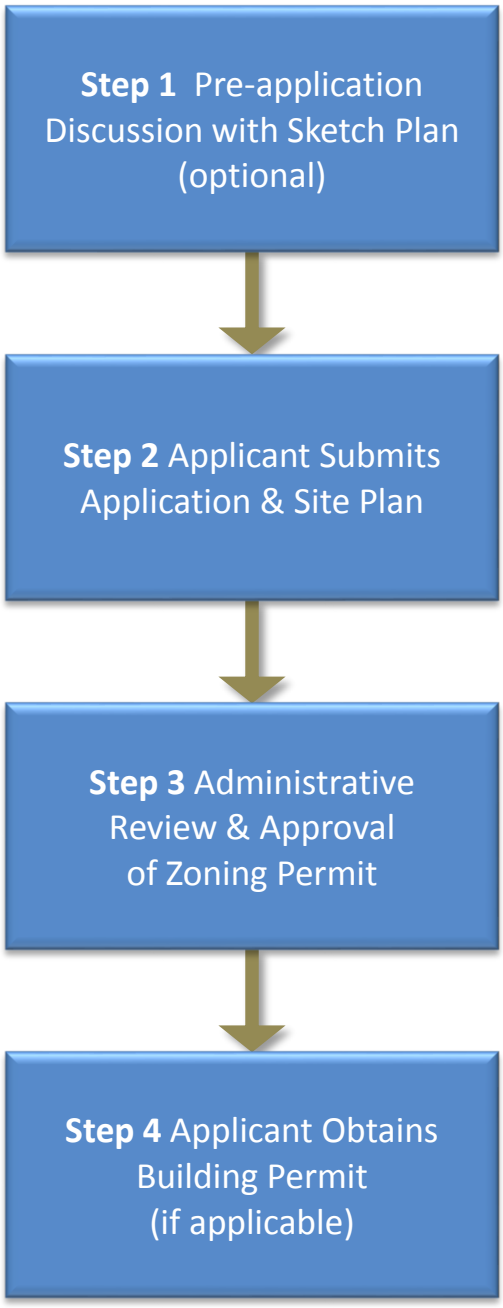
(K) No building which has been erected, added to, relocated, or structurally altered for which a Building Permit has been issued shall be used or occupied nor the use of any building or land changed until a Certificate of Occupancy has been issued by the Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code and the provisions of this Ordinance. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued.

(L) No temporary utilities shall be connected until a Building Permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issued.

(M) Approval or denial of applications shall be provided to the applicant in writing. Such approval or denial shall be effective immediately upon issuance.

2.2.3.2 Zoning Permit Procedures for Single-Family, Two-Family Residential, and Accessory Structures

Zoning Permits for single-family residential, two-family residential, and accessory structures shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion with Sketch Plan (optional)

(A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the application of this Ordinance to the proposed development is recommended.

(B) Before submitting a Zoning Permit application and Plot Plan, the applicant may submit to the Zoning Administrator a Sketch Plan showing the proposed development. The Zoning Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

Step 2. Applicant Submits Application and Plot Plan

(A) The applicant shall submit the application to the Zoning Administrator or designee within the Development and Design Services Department, fee and the Plot Plan with the following information:

(1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

(2) The location of the said lot with respect to adjacent rights-of-way;

(3) The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;

(4) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;

(5) The location and dimensions of off-street parking and the means of ingress and egress to such space; and

(6) Building elevations of all facades; and

(7) Any other information which the Zoning Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

Step 3. Administrative Review and Approval

(A) The Zoning Administrator shall review the application and Plot Plan in accordance with the requirements of this Ordinance and any other applicable requirements.

(B) The Zoning Administrator may request other applicable agencies to provide comments regarding the proposed development.

(C) If the application and Plot Plan are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit.

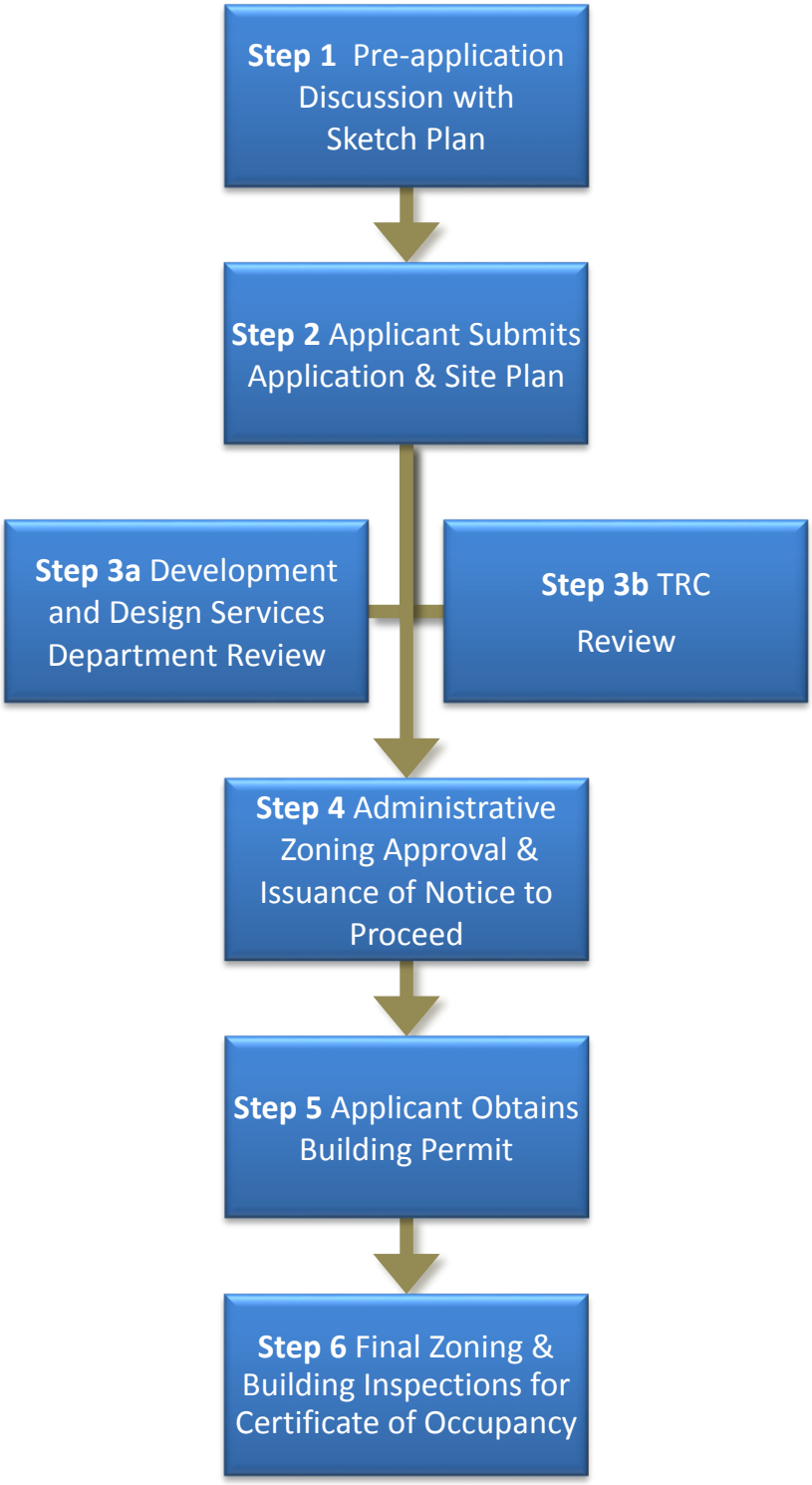
(D) If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

Step 4. Applicant Obtains Building Permit

Following approval of the Zoning Permit, the applicant may then obtain a Building Permit from the Development and Design Services Department.

2.2.3.3 Procedures for Multi-family Residential and Non-residential Development Zoning Approval and Notice to Proceed

Zoning and Notices to Proceed for multi-family residential and non-residential development shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion with Sketch Plan (optional)

(A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Zoning Administrator concerning the application of this Ordinance to the proposed development is recommended. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.

(B) Before submitting an application and Site Plan, the developer may submit to the Zoning Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 50 feet (1:50) with the following information. In an effort to assist the development community to the maximum extent possible, the Zoning Administrator will provide a scaled map of the property with most of the required elements for sketch plan review.

(1) Property boundaries with total acreage

(2) Proposed site layout including proposed structures, existing structures, and the intended use of structures, and parking

(3) Existing impervious area and proposed impervious area (in square feet/acreage and percent of lot coverage)

(4) Proposed site access and designation as public or private

(5) Topography in five (5) foot contour intervals

(6) Location of nearest existing and proposed water and sewer line sizes and types and statements regarding how property will be served with water, sewer, and fire protection

(7) Sketch of any proposed drainage facilities

(8) Zoning of subject and adjacent properties

(C) The Zoning Administrator shall review the Sketch Plan and discuss it with the developer.

(D) The Zoning Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Development and Design Services Department shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed. Any development is subject to other state and federal (*and potentially private utility*) requirements. For any requirements applying to a development, the City of Morganton will

require a letter from the regulating agency as proof of compliance. Proof of compliance will directly affect issuance of any Zoning Permit or Certificate of Compliance. These include, but are not limited to:

- Wetlands- US Corps of Engineers
- Soil and Erosion Control (compliance with ALL size developments, *including* those under an acre)- NC Department Environmental and Natural Resources
- Drive entrances- NC Department of Transportation and City of Morganton
- Other applicable agencies

(E) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Development and Design Services Department with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Development and Design Services Department concerning the proposed development.

Step 2. Applicant Submits Application and Site Plan

(A) The applicant shall submit the application, fee and the Site Plan that provides the following information:

(1) Title

(2) Original submittal date and revision dates

(3) Vicinity map

(4) North arrow

(5) Scale {no smaller than one inch equals 50 feet (1”=50’)}

(6) Lot lines with bearings and distances

(7) Zoning district and applicable overlay districts

(8) Adjacent property owner names, parcel numbers and zoning

(9) Total acreage

(10) Acreage in right-of-way

(11) Density per acre (for multi-family residential)

(12) Parking

(13) Existing and proposed impervious area in square feet and as a percentage of the site

(14) Building setbacks in table format and building envelopes shown on lots

(15) Existing Features Plan (for development sites of greater than one (1) acre) showing property boundaries; existing structures; topographical contour lines, a minimum of five (5) foot intervals, the location of severely constraining elements such as steep slopes (over 20 percent), wetlands, watercourses, perennial streams, intermittent streams and 100-year floodplains and all rights-of-way and easements; and the location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops and existing structures, streets, tracks and trails.

(16) NCDOT driveway approval (if applicable)

(17) Grading Plan for construction showing existing and proposed contours (if applicable)

(18) Soil and Erosion Control Plan (if applicable)

(19) NCDENR Soil and Erosion Control approval (if applicable)

(20) Watershed/Stormwater Plan (if applicable)

(21) Landscaping Plan

(22) Utility Plan

(23) Lighting Plan (if applicable)

(24) Building Elevations showing:

(a) Exterior wall material

(b) Roof materials

(c) Dimensions including building height, width and roof slope

(d) Front façade window dimensions including sill height, window height, window width and window area.

(B) The following submittal requirements may be altered by the Zoning Administrator as applicable.

(1) Five (5) full-size paper copies for review and revisions

(2) One (1) digital copy in PDF format or comparable format

Step 3A and B. Development and Design Services Department/Technical Review Committee Review

(A) The Zoning Administrator, Development and Design Services Department staff and the Technical Review Committee shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.

(B) The Technical Review Committee may provide comments to the Zoning Administrator regarding the proposed development. It shall be the responsibility of the Zoning Administrator to ensure that the comments are communicated to and addressed by the developer.

Step 4. Administrative Zoning Approval and Issuance of Notice to Proceed

If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Notice to Proceed inclusive of zoning approval.

Step 5. Applicant Obtains Building Permit

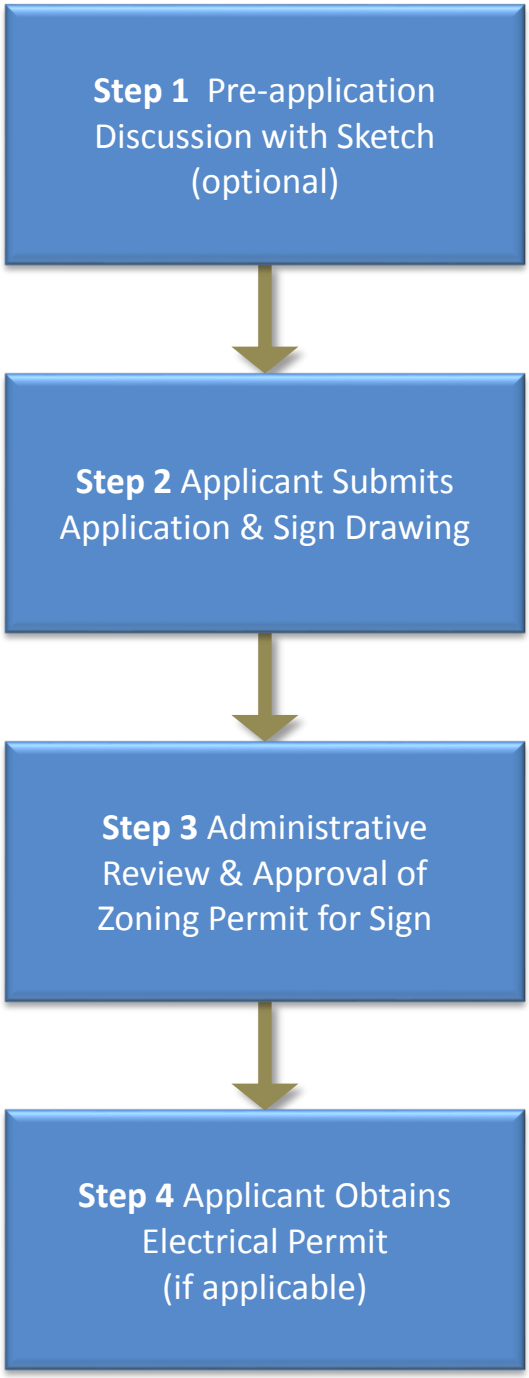
Following issuance of a Notice to Proceed by the Zoning Administrator, the applicant may then obtain a Building Permit from the Development and Design Services Department.

Step 6. Final Inspections for Certificates of Compliance and Occupancy

Following construction and prior the issuance of a Certificate of Occupancy by the Building Inspector, the Zoning Administrator shall coordinate a final site development inspection to ensure that the approved plan has been followed and all required improvements have been installed to City development standards. Upon satisfactory completion of all required improvements a Certificate of Compliance shall be issued and the Certificate of Occupancy may be issued by the Building Inspector.

2.2.3.4 Zoning Permit Procedures for Signs

Zoning Permits for signs shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion with Sketch Plan (optional)

(A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator or designee concerning the application of this Ordinance to the proposed development is recommended.

(B) Before submitting a Zoning Permit application, the applicant may submit to the Zoning Administrator a sketch showing the proposed sign. The Zoning Administrator shall advise the sign owner or his authorized agent of the regulations pertaining to the proposed sign and the procedures to be followed.

Step 2. Applicant Submits Application and Plot Plan

(A) The applicant shall submit the application, fee and a drawing of the sign and its location with the following information:

(1) The shape, dimensions, content, colors, and type of the sign;
(2) The location of the sign on the lot with respect to buildings, property lines and adjacent rights-of-way;
(3) Whether the sign is internally or externally illuminated (electric permit may be required from building inspections);
(4) For wall signs, the building length and height; and
(5) Any other information which the Zoning Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

Step 3. Administrative Review and Approval

(A) The Zoning Administrator shall review the application and drawing in accordance with the requirements of this Ordinance and any other applicable requirements.

(B) If the application and drawing are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the sign.

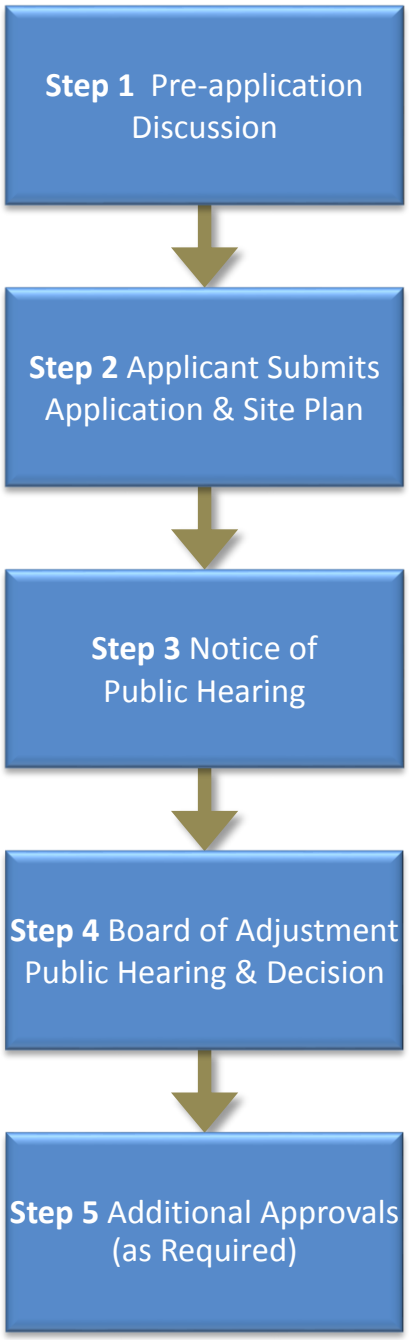
(C) If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

Step 4. Applicant Obtains Electrical Permit (if applicable)

Following approval of the Zoning Permit for an illuminated sign, the applicant may then obtain an Electrical Permit from the Development and Design Services Department, if required.

2.2.4 Variance Procedures

Variance requests shall be heard by the Board of Adjustment. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion with Sketch Plan (optional)

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the application is recommended. The Zoning Administrator shall review the request and discuss it with the applicant.

Step 2. Applicant Submits Application and Site Plan

(A) The applicant shall submit the application, fee and the Site Plan that provides, at a minimum, the following information:

(1) Survey of the property at a scale no smaller than one inch equals 50 feet (1”=50’)

(2) North arrow

(3) Lot lines with bearings and distances

(4) Zoning district and applicable overlay districts

(5) Adjacent property owner names, parcel numbers and zoning

(6) Total acreage

(7) Proposed buildings and parking

(8) Existing and proposed impervious area in square feet and as a percentage of the site

(9) Proposed building setbacks (as they relate to the variance request)

(10) Any other information pertinent to providing substantial, material, and competent evidence of a hardship preventing reasonable use of the property if the requirements of the Zoning Ordinance are followed.

(B) The following submittal requirements may be altered by the Zoning Administrator as applicable:

(1) Five (5) full-size paper copies of the Site Plan for the Board of Adjustment

(2) One (1) digital copy in PDF format or comparable format

Step 3. Notice of Public Hearing

The Zoning Administrator shall provide notice of the public hearing in the following manner as prescribed by NCGS 160A-388. Notice of Board of Adjustment hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the City may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the City shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Step 4. Board of Adjustment Public Hearing and Decision

(A) The Board of Adjustment shall conduct a quasi-judicial public hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

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

(C) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(D) The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the Board and members

who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(E) The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(F) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

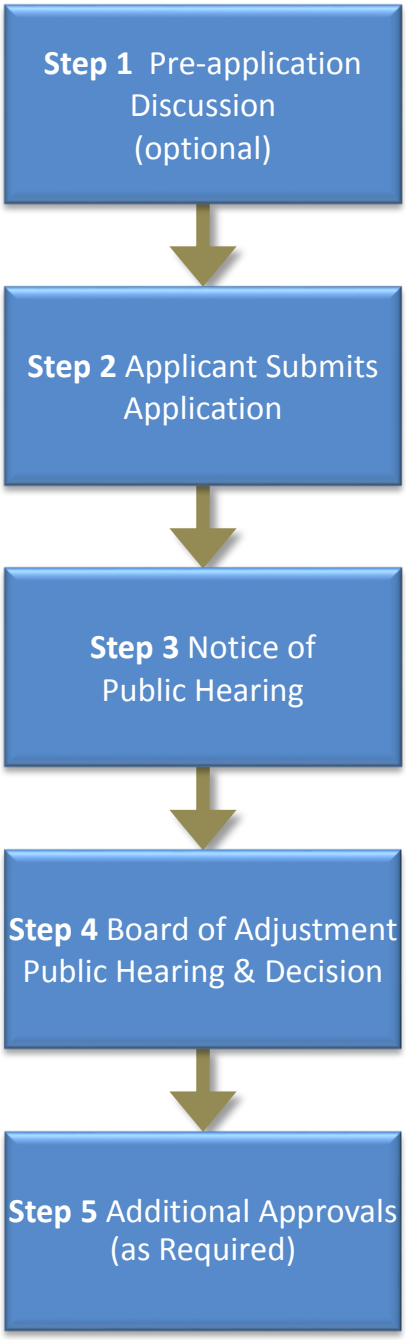
(G) The chair of the Board or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully testifies falsely is guilty of a Class 1 misdemeanor.

Step 5: Additional Approvals (as required)

Following the approval of a variance by the Board of Adjustment, the applicant may need to obtain additional approvals which may include subdivision, Zoning Permit, or Building Permit approval before work may begin.

2.2.5 Appeal Procedures

Appeals shall be heard by the Board of Adjustment. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion (optional)

(A) The Board of Adjustment shall hear and decide appeals of decisions of administrative officials charged with enforcement of the Zoning Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

(1) Any person who has standing under NCGS 160A-393(d), or the City, may appeal a decision to the Board of Adjustment.

(2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner.

(3) The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(4) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(5) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(6) The Board of Adjustment shall hear and decide the appeal within a reasonable time.

(B) To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the application is recommended. The Zoning Administrator shall review the request and discuss it with the applicant.

(C) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

Step 2. Applicant Submits Application and Site Plan

The applicant shall submit the application, fee and any other information pertinent to the appeal request.

Step 3. Notice of Public Hearing

The Zoning Administrator shall provide notice of the public hearing in the following manner as prescribed by NCGS 160A-388. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Variance is requested. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the hearing. The City shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

Step 4. Board of Adjustment Public Hearing and Decision

(A) The official who made the decision being appealed shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(B) The Board of Adjustment shall conduct a quasi-judicial public hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.

(C) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the City would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.

(D) When hearing an appeal pursuant to NCGS 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in NCGS 160A-393(k).

(E) A simple majority of the members of the Board of Adjustment shall be required to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-

judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(F) The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

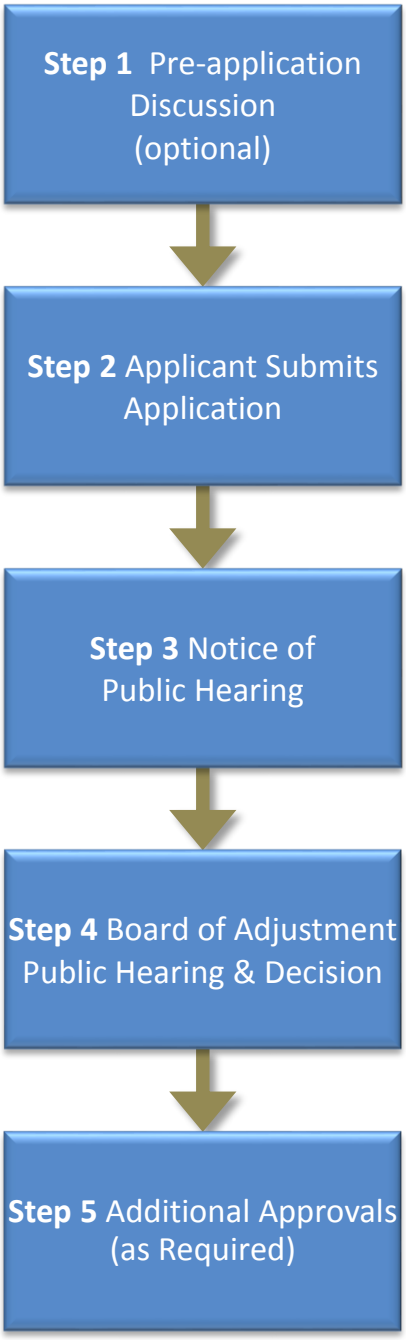
(G) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160A-393. A petition for shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

Step 5: Additional Approvals (as required)

Following any reversal of a decision by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

2.2.6 Certificate of Nonconformity Adjustment Procedures

Requests for Certificates of Nonconformity Adjustment shall be heard by the Board of Adjustment. Criteria for Certificates of Nonconformity Adjustment are set forth in Article 6 of the Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion (optional)

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the Certificate of Nonconformity Adjustment application is recommended. The Zoning Administrator shall review the request and discuss it with the applicant.

Step 2. Applicant Submits Application and Site Plan (if applicable)

(A) If the request for a Certificate of Nonconformity Adjustment involves new construction, addition, or the use of previously vacant land, then the applicant shall provide a Site Plan with the application and fee. The Site Plan shall provide, at a minimum, the following information:

(1) Survey of the property at a scale no smaller than one inch equals 50 feet (1”=50’)

(2) North arrow

(3) Lot lines with bearings and distances

(4) Zoning district and applicable overlay districts

(5) Adjacent property owner names, parcel numbers and zoning

(6) Total acreage

(7) Proposed buildings and parking

(8) Impervious area in total area and as a percentage of the site

(9) Proposed building setbacks (as they relate to the variance request)

(10) Any other information pertinent to providing substantial, material, and competent evidence of a hardship preventing reasonable use of the property if the requirements of the Zoning Ordinance are followed.

(B) The following submittal requirements may be altered by the Zoning Administrator as applicable.

(1) Five (5) full-size paper copies of the Site Plan for the Board of Adjustment

(2) One (1) digital copy in PDF format or comparable format

Step 3. Notice of Public Hearing

The Zoning Administrator shall provide notice of the public hearing in the following manner as prescribed by NCGS 160A-388. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Variance is requested. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the public hearing. The City shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

Step 4. Board of Adjustment Public Hearing and Decision

(A) The Board of Adjustment shall conduct a quasi-judicial public hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. The Board of Adjustment shall make the following findings-of-fact in granting a Certificate of Nonconformity Adjustment:

(1) The request will not increase the intensity of an existing nonconforming use by substantially increasing noise, traffic, or other measurable physical effects.

(2) The Certificate of Nonconformity Adjustment is necessary to continue the use of the property in the same manner that it has been used in the past.

(3) The nonconforming situation is being presented in a way that does not detract from the property values or aesthetics of the surrounding area.

(4) The requested Certificate of Nonconformity Adjustment is consistent with the spirit, purpose, and intent of ordinance, such that public safety is secured, and substantial justice is achieved.

(B) A simple majority of the members of the Board of Adjustment shall be required to grant a Certificate of Nonconformity Adjustment. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(C) The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official as the

ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

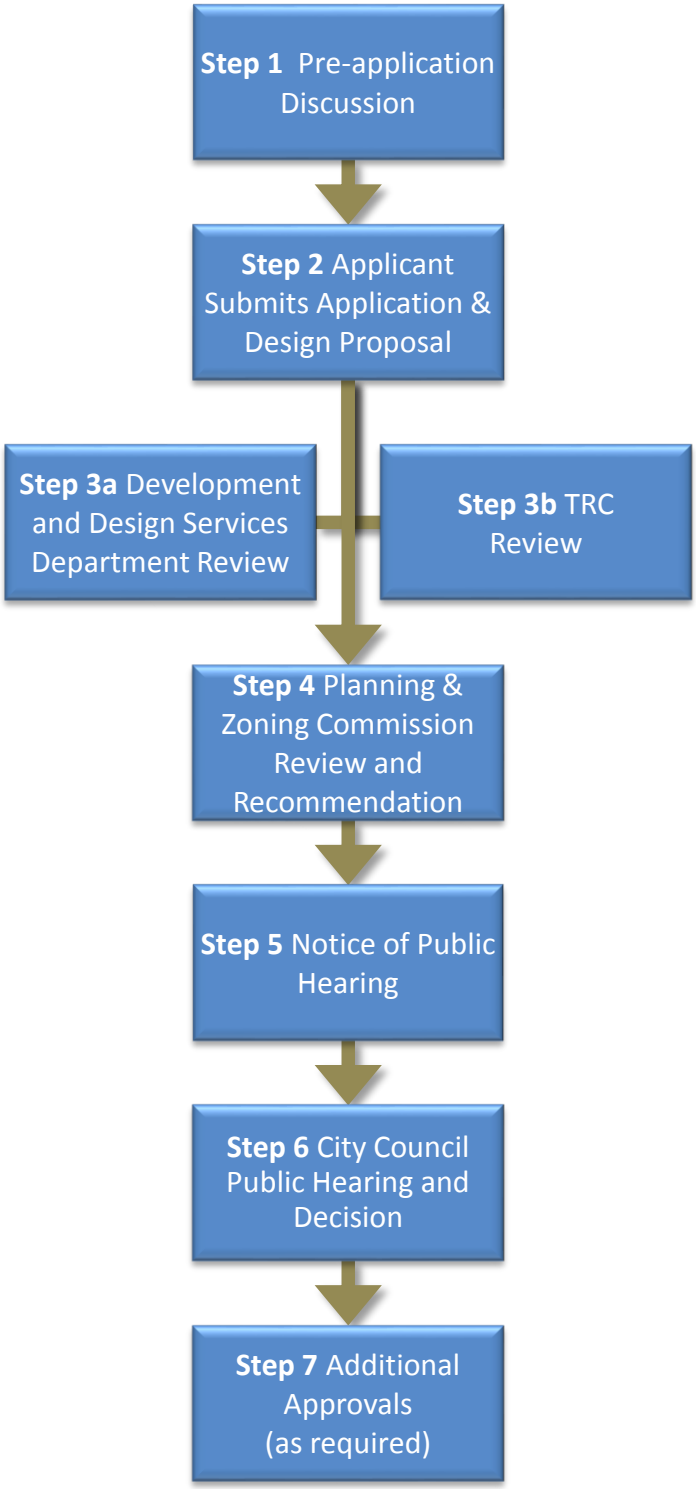
(D) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160A-393. A petition for shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

Step 5: Additional Approvals (as required)

Following the approval of a Certificate of Nonconformity Adjustment by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning, Notice to Proceed, and/or Building Permit approval before work may begin.

2.2.7 Alternative Design Proposals

The City Council may approve alternative design proposals that differ from the requirements of Article 4 of this Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion (required)

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the Alternative Design Proposal application is required. The Zoning Administrator shall review the request and discuss it with the applicant.

Step 2. Applicant Submits Application and Design Proposal

(A) The applicant shall submit the application, fee and the Site Plan that provides the following information:

(1) Title

(2) Original submittal date and revision dates

(3) Vicinity map

(4) North arrow

(5) Scale {no smaller than one inch equals 50 feet (1”=50’)}

(6) Lot lines with bearings and distances

(7) Zoning district and applicable overlay districts

(8) Adjacent property owner names, parcel numbers and zoning

(9) Total acreage

(10) Acreage in right-of-way

(11) Density per acre (for multi-family residential)

(12) Parking

(13) Existing and proposed impervious area in total area and as a percentage of the site

(14) Building setbacks in table format and building envelopes show on lots

(15) Existing Features Plan (for development sites of greater than one (1) acre) showing property boundaries; existing structures; topographical contour lines, a minimum of five (5) foot intervals, the location of severely constraining elements such as steep slopes (over 20 percent), wetlands, watercourses, perennial streams, intermittent streams and 100-year floodplains and all rights-of-way and easements; and the

location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops and existing structures, streets, tracks and trails.

(16) NCDOT driveway approval (if applicable)

(17) Grading Plan for construction (if applicable)

(18) Soil and Erosion Control Plan (if applicable)

(19) NCDENR Soil and Erosion Control approval (if applicable)

(20) Watershed/Stormwater Plan (if applicable)

(21) Landscaping Plan

(22) Utility Plan

(23) Lighting Plan (if applicable)

(24) Building Elevations showing:

(a) Exterior wall material

(b) Roof materials

(c) Dimensions including building height, width and roof slope

(d) Front façade window dimensions including sill height, window height, window width and window area.

(B) On the application, the applicant shall state how the design proposal differs from the requirements of Article 4 and how the alternative design will substantially achieve the same intent as the requirements of Article 4.

(C) The following submittal requirements may be altered by the Zoning Administrator as applicable:

(1) Five (5) full-size paper copies for review and revisions

(2) One (1) digital copy in PDF format or comparable format

Step 3A and B. Development and Design Services Department/Technical Review Committee Review

(A) The Zoning Administrator, Development and Design Services Department and Technical Review Committee shall review the Alternative Design Proposal in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.

(B) The Technical Review Committee may provide comments to the Zoning Administrator regarding the proposed development. The Zoning Administrator shall include these comments in its report to the Planning & Zoning Commission and City Council.

Step 4. Notice of Planning and Zoning Commission Review

(A) Notice of the review by the Planning & Zoning Commission shall be published in a newspaper of general circulation in the City at least seven (7) days prior to the date of the review, shall give notice of the alternative design being considered and shall generally identify any property under consideration.

(B) The owners of all parcels of land adjacent thereto as shown on the tax records for Burke County shall be mailed a notice of the hearing and of the proposed alternative design by First Class Mail at the last addresses shown for such owners on the County Tax Abstracts at least seven (7) days prior to the review.

(C) Further, signs shall be posted on or near such property notifying the public of time, date and location of the review. The person or persons mailing written notices or posting the property shall certify to the Planning & Zoning Commission that fact and such certificate shall be deemed conclusive in the absence of fraud and the notice of such review sufficient.

Step 5. Planning & Zoning Commission Review and Recommendation

(A) The Zoning Administrator shall present any properly completed application for Alternative Design Proposals to the Planning & Zoning Commission at a regularly scheduled meeting.

(B) The Planning & Zoning Commission shall review the proposal and recommend approval, approval with conditions or denial of the proposal by simple majority vote of those present and voting. The Planning & Zoning Commission shall include with its recommendation a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted City plans and policies and the surrounding area.

Step 6. Notice of Public Hearing

(A) A notice shall be published in a newspaper having general circulation in the City at least once not less than 10 days nor more than 25 days prior to the date established for the public hearing.

(B) A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator to the affected property owner and to all adjacent property owners.

(C) The City shall conspicuously post a notice of public hearing at the subject property at least 10 days prior to the public hearing. The notice shall be removed only after the public hearing has been held.

Step 7. City Council Public Hearing and Decision

(A) The Zoning Administrator shall transmit to the City Council a record of action taken on the Alternative Design Proposal by the Planning & Zoning Commission.

(B) The City Council shall conduct a public hearing and include with its decision a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted City plans and policies and the surrounding area.

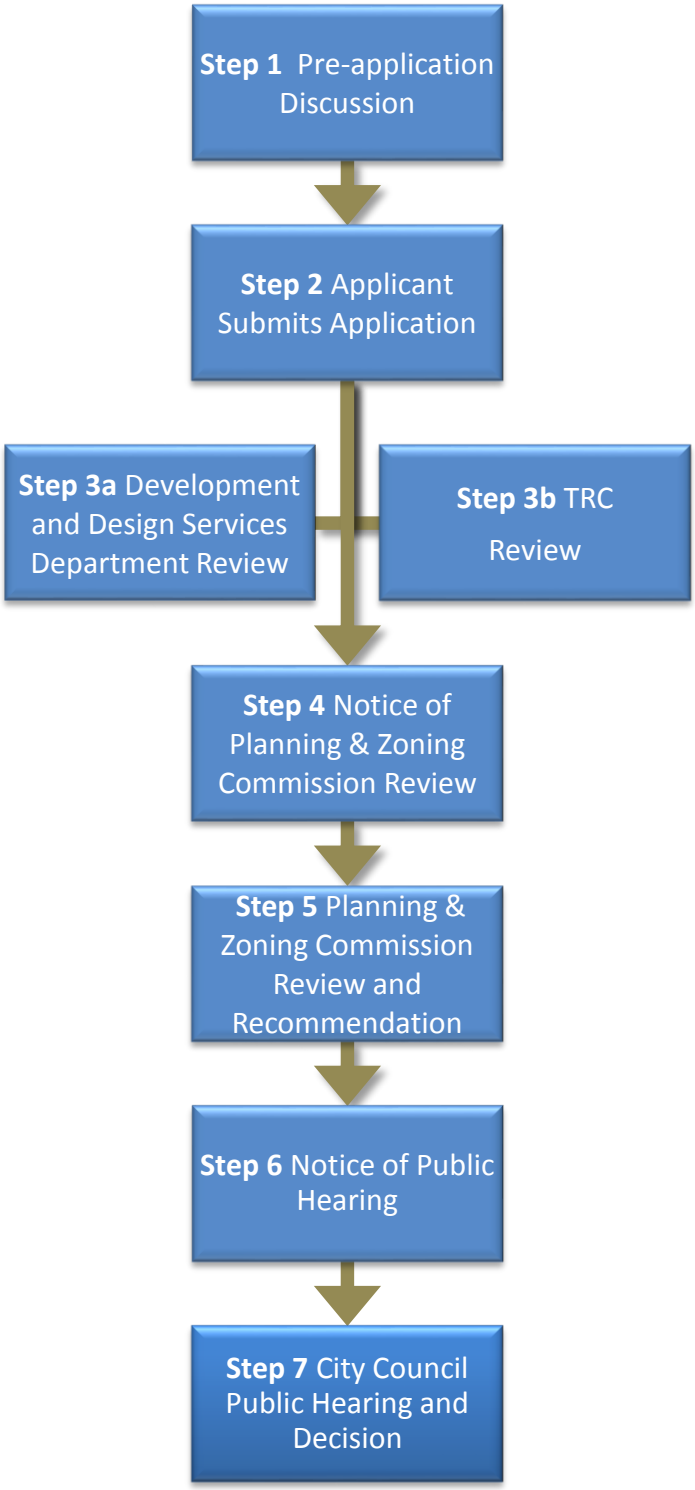
(C) Approval of an Alternative Design Proposal shall require a simple majority of City Council members present.

Step 8. Additional Approvals (as required)

Following the approval of an Alternative Design proposal by the City Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

2.2.8 Zoning Map Amendments (Rezonings)

The City Council may amend, supplement or change the Zoning Map according to the following procedure. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion (required)

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the proposed map amendment is required. The Zoning Administrator shall review the request and discuss it with the applicant.

Step 2. Applicant Submits Application

(A) Applications to change, supplement or amend the Zoning Map may be initiated by the City Council, the Planning & Zoning Commission, or anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

(B) The Zoning Administrator, before scheduling any map amendment for consideration by the Planning & Zoning Commission, shall ensure that it contains all the required information as specified in this Article and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Article shall not be scheduled, but shall be returned to the applicant with a notation of the deficiencies in the application.

(C) All applications for map amendments shall contain, at a minimum, a description of the proposed change.

(D) Specific development proposals may not be considered by staff, the Planning & Zoning Commission, or the City Council. These entities may only consider the impacts of the proposed zoning district.

Step 3a/3b. Development and Design Services Department/Technical Review Committee Review

(A) The Zoning Administrator and Development and Design Services Department shall review the proposed map amendment and prepare a staff report with an assessment of how the rezoning relates to the Comprehensive Plan and surrounding zoning and land uses. Staff shall also include all Technical Review Committee comments in the report.

(B) The Technical Review Committee shall review the proposed map amendment and provide comments on how the rezoning will affect utilities, roads, and other infrastructure or services.

Step 4. Notice of Planning & Zoning Commission Review

(A) Notice of the review by the Planning & Zoning Commission shall be published in a newspaper of general circulation in the City at least seven (7) days prior to the date of the review, shall give notice of the amendment or change being considered and shall generally identify any property under consideration for a change in zoning classification.

(B) The owners of all parcels of land adjacent thereto as shown on the tax records for Burke County shall be mailed a notice of the hearing and of the proposed amendment or change to the zoning classification by First Class Mail at the last addresses shown for such owners on the County Tax Abstracts at least seven days prior to the review.

(C) Further, signs shall be posted on or near such property notifying the public of time, date and location of the review. The person or persons mailing written notices or posting the property shall certify to the Planning & Zoning Commission that fact and such certificate shall be deemed conclusive in the absence of fraud and the notice of such review sufficient.

(D) Notwithstanding the preceding, the mailing and posting of the notice required hereunder shall not apply to any repeal and/or recodification or rewrite of the entire Zoning Ordinance or total rezoning of all property within the zoning jurisdiction of the City. In those circumstances, a general notice of the public hearing published once a week for two (2) successive calendar weeks in a newspaper having general circulation in Morganton setting forth the date, time, place and purpose of the hearing shall be sufficient. Notice shall be published for the first time not less than 10 days nor more than 25 days before the date fixed for the review.

Step 5. Planning & Zoning Commission Recommendation and Review

(A) The Zoning Administrator shall present any properly completed application for amendment to the Planning & Zoning Commission at a regularly scheduled meeting.

(B) The Planning & Zoning Commission shall review on the proposed amendment and shall either recommend approval or denial of an amendment by simple majority vote of those present and voting. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted City plans and policies and the surrounding area. A tie vote on a proposal shall be considered to be a recommendation for denial for such amendment. If the Planning & Zoning Commission should fail to act on any proposal amendment within 30 days after it is presented to the Commission such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

(C) Any proposed amendment which receives a recommendation for approval from the Planning & Zoning Commission shall be forwarded to the City Council for a public hearing. Any proposed amendment which receives a recommendation for denial from the Planning & Zoning Commission, shall not be forwarded to the City Council unless the applicant appeals such denial within 10 days of such Commission action. Such appeal shall be in writing requesting the City Council to hold a public hearing on the matter and shall be filed with the Zoning Administrator.

Step 6. Notice of Public Hearing

(A) A notice shall be published in a newspaper having general circulation in the City once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for map amendments noted in Subsection (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.

(B) A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all adjacent property owners. The mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the City may elect to use expanded published notice as noted above in Subsection (A). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.

(C) The City shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the City shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

(D) For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time and location of the public hearing. The notice shall be written by the Zoning Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Zoning Administrator prior to the public hearing. This requirement shall not apply if a map amendment is initiated by the City.

Step 7. City Council Public Hearing and Decision

(A) The Zoning Administrator shall transmit to the City Council a record of action taken on the proposed amendment.

(B) The City Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held.

(C) The City Council shall include with its decision a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted City plans and policies and the surrounding area.

(D) Approval of a map amendment shall require a simple majority of City Council members present. In case, however of a protest against such change meeting the requirements of NCGS 160A-385(a) an amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the City Council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Article as a result of annexation or otherwise.

(E) No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of one (1) year from:

(1) The date of final determination by the City Council; or,

(2) The date of the public hearing or scheduled public hearing if the application is withdrawn after it has been advertised for public hearing.

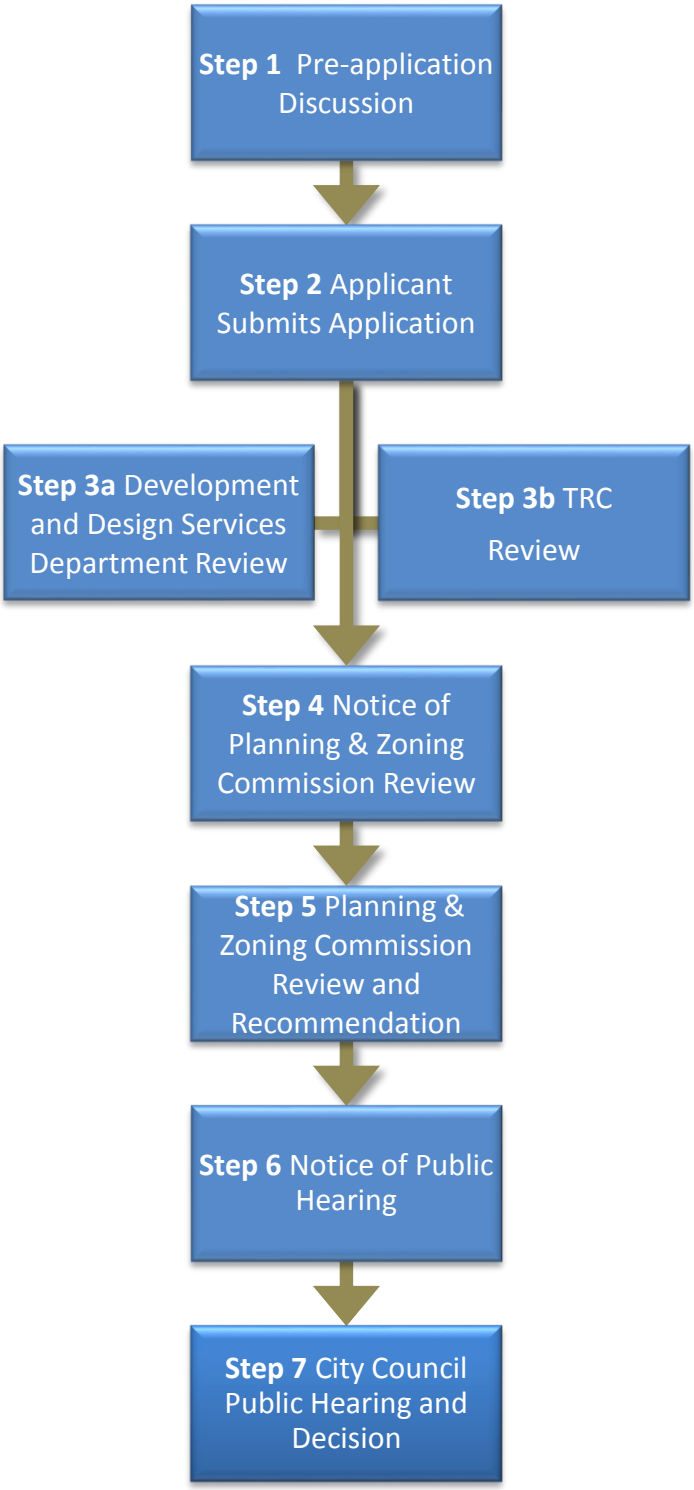
(3) Fee submitted for withdrawn cases shall not be refundable once the proposal has been advertised.

Step 8. Additional Approvals (as required)

Following the approval of a map amendment by the City Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

2.2.9 Zoning Text Amendments

The City Council may amend, supplement or change the Zoning Ordinance according to the following procedure. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Discussion

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Zoning Administrator concerning the proposed text amendment is required. The Zoning Administrator shall review the request and discuss it with the applicant.

Step 2. Applicant Submits Application

(A) Applications to change, supplement or amend the Zoning Ordinance may be initiated by the City Council, the Planning & Zoning Commission, or anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

(B) The Zoning Administrator, before scheduling any text amendment for consideration by the Planning & Zoning Commission, shall ensure that it contains all the required information as specified in this Article and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Article shall not be scheduled, but shall be returned to the applicant with a notation of the deficiencies in the application.

(C) Completed applications shall be received a minimum of 28 days prior to the Planning & Zoning Commission meeting at which the proposed amendment is scheduled to be considered.

(D) All applications for text amendments shall contain, at a minimum, a description of the proposed change, including the affected section numbers of the Zoning Ordinance and the proposed text.

(E) Specific development proposals may not be considered by staff, the Planning & Zoning Commission, or the City Council. These entities may only consider the impacts of the proposed text on all affected zoning districts or potential development projects.

Step 3a/3b. Development and Design Services Department/Technical Review Committee Review

(A) The Zoning Administrator and Development and Design Services Department shall review the proposed map amendment and prepare a staff report with an assessment of how the rezoning relates to the Comprehensive Plan and surrounding zoning and land uses. Staff shall also include all Technical Review Committee comments in the report.

(B) The Technical Review Committee shall review the proposed text amendment and provide comments on how the amendment may affect utilities, roads, and other infrastructure or services.

Step 4. Planning & Zoning Commission Recommendation and Review

(A) The Development and Design Services department staff shall present any properly completed application for amendment to the Planning & Zoning Commission at a regularly scheduled meeting.

(B) The Planning & Zoning Commission shall review on the proposed amendment and shall either recommend approval or denial of an amendment by simple majority vote of those present and voting. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted City plans and policies and the surrounding area. A tie vote on a proposal shall be considered to be a recommendation for denial for such amendment. If the Planning & Zoning Commission should fail to act on any proposal amendment within 30 days after it is presented to the Commission such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure. Any proposed amendment which fails to receive a favorable recommendation from the Planning & Zoning Commission shall be considered to have a recommendation for denial unless a person who has the authority to initiate that type of proposal appeals such denial within 10 days of such Commission action. Such appeal shall be in writing requesting the City Council to hold a public hearing on the matter and shall be filed with the Development and Design Services Department.

Step 5. Notice of Public Hearing

A notice shall be published in a newspaper having general circulation in the City once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing.

Step 6. City Council Public Hearing and Decision

(A) The Development and Design Services Department staff shall transmit to the City Council a record of action taken by the Planning & Zoning Commission on the proposed amendment.

(B) The City Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held.

(C) The City Council shall include with its decision a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted City plans and policies and the surrounding area.

(D) Approval of a text amendment shall require a simple majority of City Council members present.

Step 7. Additional Approvals (as required)

Following the approval of a text amendment by the City Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

2.3 Enforcement

2.3.1 Violations

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Section and by State law.

2.3.1.1 Development Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

2.3.1.2 Development Inconsistent With Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

2.3.1.3 Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the City Council or its agent Boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

2.3.1.4 Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

2.3.1.5 Continuing a Violation

Each day's continuance of any of the above violations is a separate and distinct offense.

2.3.1.6 Inspection and Investigation

(A) The Development and Design Services Department shall have the right upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

(B) The Development and Design Services Department shall have the power to conduct such investigations, as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance and, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

2.3.1.7 Supporting Documentation

The Development and Design Services Department shall have the power to require written statements; certificates, certifications, or the filing of reports with respect to pertinent questions relating to complains or alleged violations of this Ordinance.

2.3.2 Enforcement Procedure

If the Development and Design Services Department finds that any of the provisions of this Ordinance are being violated, then he shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Development and Design Services Department shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions; alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

2.3.2.1 Notice of Violation

If the owner of the land, building, structure, sign or use in violation fails to take prompt corrective action, the Development and Design Services Department shall give the owner or occupant written notice (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) of the following:

(A) That the land, building, structure, sign, or use is in violation of this Ordinance;

(B) The nature of the violation and citation of the Section(s) of this Ordinance violated; and

(C) The measures necessary to remedy the violation.

2.3.2.2 Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Development and Design Services Department to the Board of Adjustment within 15 days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify or revoke the Notice of Violation. In the absence of an appeal, the decision of the Development and Design Services Department shall be final.

2.3.2.3 Notice of Decision

The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

2.3.3 Failure to Comply with Notice

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to the penalties and remedies as set forth in Section 2.3.5 or to such remedies and penalties as may be provided by the State law.

2.3.4 Remedies

Any or all of the following procedures may be used to enforce the provisions of this Ordinance.

2.3.4.1 Injunction

Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.

2.3.4.2 Civil Penalties

Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 2.3.5.

2.3.4.3 Denial of Permit or Certificate

The Development and Design Services Department shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, sign, or use in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

2.3.4.4 Conditional Permit or Temporary Certificate

The Development and Design Services Department may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

2.3.4.5 Stop Work Orders

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered or repaired in violation of this Ordinance, the Development and Design Services Department may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Such action shall be in accordance with NCGS 160A-421 or the NC Building Code.

2.3.4.6 Revocation of Permits or Certificates

The Development and Design Services Department may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the

revocation. Permits or certificates shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

2.3.5 Penalty

(A) Violations of this Ordinance shall constitute either a misdemeanor, with a fine not exceeding 50 dollars or imprisonment not exceeding 30 days, or, at the election of the City, shall subject the offender to a civil penalty upon the issuance of a citation for said violations as hereinafter provided. The civil penalty, if not paid to the City within 15 days of the issuance of a citation, may be recovered by the City in a civil action in the nature of debt. Said civil penalties shall be in the amounts shown below for each violation and each day any single violation continues shall be a separate violation.

TABLE 2.2: CIVIL PENALTIES

Citation	Civil Penalty
Warning	Correct Violation within 10 days
First	$50.00
Second	$100.00
Third and Subsequent	$200.00

(B) In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from any court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the City for equitable relief that there is an adequate remedy at law.

(C) In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the City may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

(D) An order of abatement may direct that buildings or other structures on the property by closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that improvements or repairs

be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refused to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(E) The provision of this Ordinance may be enforced by one (1), all or a combination of the remedies authorized and prescribed by this section.

(F) Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the Development and Design Services Department shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

(G) An appeal from a warning citation shall be taken within 10 days from the date of such warning citation and the Board of Adjustment, in considering such appeal, shall, notwithstanding other powers as may be granted, have power only in the manner of administrative review and interpretation where it is alleged that the Development and Design Services Department has made an error in the application of the Ordinance, in the factual situation as it relates to the application of the Ordinance, or both.

(H) Where the Zoning Administration determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the Development and Design Services Department may amend the warning citation to provide additional time. The warning citation shall specify that a second citation shall incur civil penalty, together with costs and attorney fees.

(I) Upon failure of the violator to obey the warning citation a civil citation shall be issued by the Development and Design Services Department and either served directly on the violator, his duly designated agent, or registered agent if a

corporation, either in person or posted in the United States Postal Service by first class mail addressed to the last known address of the violator as contained in the records of the City or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to pay the civil assessment within 15 days of the date of citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

(J) If the violator fails to respond to a citation within 15 days of its issuance and pay the penalty prescribed therein, the City may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of penalty, costs, attorney fees and such other relief as permitted by law.

ARTICLE 3
ZONING DISTRICTS AND USES

Article 3 Contents

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3.1 Base Zoning Districts

Base zoning districts are created to provide comprehensive land use regulations throughout Morganton. There are six (6) base zoning districts that provide for a variety of uses that are appropriate to the character of the areas in which they are located. For the purpose of this Ordinance, Morganton is hereby divided into the following base zoning districts. These districts shall comply with all of the general and specific requirements of this Ordinance.

3.1.1 Low Intensity District (LID)

The Low Intensity District is established primarily for single-family residential uses at a variety of densities depending on location and proximity to transportation corridors and services. It is also the intent of this district to allow for certain types of nonresidential community facilities and services that would not be detrimental to the residential character of the district.

3.1.2 Medium Intensity District (MID)

The Medium Intensity District is intended for a variety of medium to high density residential and low to medium intensity civic, institutional, office, service, and retail uses designed to keep the impact on adjacent residential areas at a minimum.

3.1.3 High Intensity District (HID)

The High Intensity District is established to accommodate high density residential and wide variety of civic, institutional, retail, service, and office uses along major arterials within the City and to ensure these uses are attractive, functional, and do not have a harmful effect on adjacent neighborhoods or other commercial areas of the City.

3.1.4 Central Business District (CBD)

The Central Business District is established to protect and promote the continued vitality of downtown Morganton. It is the intent of this district to provide a concentration of activities in a pedestrian-oriented setting. These activities include retail trade, office, and professional service uses as well as high density residential.

3.1.5 Exclusive Industrial District (EID)

The Exclusive Industrial District is established as a district intended to provide for manufacturing, warehousing, transportation, utility, and similar uses. The further growth of non-industrial development is prohibited to preserve land for industrial purposes.

3.1.6 State Institutional District (SID)

Due to the large amount of state-owned land within the City of Morganton, the State Institutional District is established to accommodate a variety of institutional and governmental uses on land owned by the State of North Carolina.

3.2 Overlay Districts

The base zoning districts established in this Chapter may also be subject to one (1) or more overlay districts as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying base zoning district, but also the additional requirements of the overlay district.

3.2.1 Neighborhood Conservation Overlay (NC-O)

3.2.1.1 Intent

The intent of this overlay is to protect and conserve established neighborhoods within the Low Intensity and Medium Intensity districts from more intensive or incompatible uses. Uses in the Neighborhood Conservation Overlay are primarily single-family residential.

3.2.1.2 Uses

Certain incompatible uses are excluded from the Neighborhood Conservation Overlay. These uses are indicated in the "Overlay Exceptions" column of the Permitted Uses Table in Section 3.3.

3.2.1.3 Development Standards

Properties within the Neighborhood Conservation Overlay shall follow the development standards as outlined throughout Article 4 for setbacks, building height, fences, roofs, exterior materials, and garages.

3.2.2 Manufactured Home Overlay (MH-O)

3.2.2.1 Intent

The intent of this overlay is to allow for manufactured homes on individual lots and set minimum standards for their installation.

3.2.2.2 Uses

In addition to the uses allowed within the base zoning district of applicable properties, one (1) manufactured home per individual lot of record is permitted.

3.2.2.3 Development Standards

(A) The manufactured home shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

(B) The manufactured home shall be at least 24 feet by 40 feet (double-wide) excluding towing apparatus. The home shall have a length not exceeding four (4) times its width, with its length measured along the longest axis and its width measured at the most narrow part of the axis.

(C) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area.

(D) The pitch of the roof of the manufactured home shall have a minimum vertical rise of a nominal three (3) feet for each 12 feet of horizontal run and the roof shall be finished with a type of shingle that is commonly used in standard residential construction.

(E) All roof structures shall provide an eave projection of not less than six (6) inches, which may include a gutter.

(F) The exterior siding shall consist predominately of vinyl or aluminum horizontal lap siding (whose reflectively does not exceed that of flat white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(G) The manufactured home shall set up in accordance with the standards established by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the mobile home.

(H) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the house shall be installed or constructed in accordance with the standards established by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground.

(I) The moving hitch, wheels and axles, and transporting lights shall be removed.

(J) The manufactured home shall be oriented on the site in such a manner that the side having the main entrance and by design is intended to be the front of the home is essentially parallel to the street abutting the site.

3.2.3 Corridor Overlay (C-O)

3.2.3.1 Intent

The intent of the Corridor Overlay is to establish a minimum standard of development along the main thoroughfares within the City to enhance the appearance of Morganton and promote attractive and stable economic development. Such development shall not interfere with the future widening or improvement of the corridor and shall meet the minimum standards for development as set forth in this section. This overlay shall apply to any portion of the property in the MID, HID, EID, and SID zoning districts within 250 feet of designated thoroughfares as shown on the Official Zoning Map. Designated thoroughfares include portions of NC Highway 18 (Sterling Street, Old NC Highway 18 (Enola Road), US Highway 70 (Fleming Drive and Carbon City Road), US Highway 70 Business (Union Street), US Highway 64 (Lenoir Road, Lenoir Street, Avery Avenue, and Burkemont Avenue), NC Highway 181 (Green Street), Independence Boulevard, Jamestown Road, Causby Road, Bethel Road, and Kirksey Drive.

3.2.3.2 Uses

Certain incompatible uses are excluded from the Corridor Overlay. These uses are indicated in the "Overlay Exceptions" column of the Permitted Uses Table in Section 3.3.

3.2.3.3 Development Standards

Non-residential and multi-family residential uses within the Corridor Overlay shall follow the development standards as outlined throughout Article 4 for landscaping, sidewalks, building design, parking placement, paving, curb and gutter.

3.2.4 River District Overlay (RD-O)

3.2.4.1 Intent

The intent of the River District Overlay is to protect and conserve the natural setting of area in the vicinity of the Catawba River and Catawba Meadows Park and to promote compatible recreation and tourist-based development. This overlay shall apply to any portion of the property in the MID, HID, EID, and SID zoning districts within 250 feet of designated thoroughfares as shown on the official Zoning Map. Designated thoroughfares include portions of US Highway 70 (Carbon City Road), US Highway 70 Business (Union Street), US Highway 64 (Lenoir Road), NC Highway 181 (Green Street), Independence Boulevard, Bost Road, Sanford Drive, and Kirksey Drive.

3.2.4.2 Uses

Certain incompatible uses are excluded from the River District Overlay. These uses are indicated in the "Overlay Exceptions" column of the Permitted Uses Table in Section 3.3.

3.2.4.3 Development Standards

Non-residential and multi-family residential uses within the Corridor Overlay shall follow the development standards as outlined throughout Article 4 for landscaping, sidewalks, building design, parking placement, paving, curb and gutter.

3.2.5 Airport/Heliport Safety Overlay (AHS-O)

3.2.5.1 Intent

The Airport Heliport Safety District establishes standards to protect existing airports and heliports from height obstructions that can reduce the size of areas available for landing, takeoff and maneuvering of aircraft.

3.2.5.2 Zones

In order to carry out the purposes of the Airport Heliport Safety District there are hereby established certain zones which include certain areas and airspace within and above Morganton's zoning jurisdiction these areas and airspace directly effect the approach, departure and transitioning of aircraft at the Foothills Regional Airport, and the local hospital heliport. The source and the specific geometric design standards for these zones are defined in Part 77 of the Federal Aviation Administration (FAA) Manual, shown and incorporated upon the Official City of Morganton Airport Heliport Safety District (AHSD) Maps approved and recorded in the Burke County Register of Deeds Office. These zones are established as overlay zones, superimposed over the approved Morganton Zoning Map, being more specifically zones of airspace that do not affect the uses and activities of the zones shown upon the approved Morganton Zoning Map. An area located in more than one (1) of the following surface zones is considered to be only in the zone with the most restrictive height limitation. These zones are as follows:

(A) *Approach zone (AZ).* A zone that extends upward and outward away from each end of the extended runway centerline at a slope and horizontal distance determined appropriate for that particular airport or heliport as set forth within Part 77 of the Federal Aviation Administration (FAA) Manual. The floor elevation of this zone is set by the primary surface of the particular airport or heliport.

(B) *Primary transitional zone (PTZ).* A zone particular to the runway centerline that extends outward and upward on a 7 to 1 slope from the sides of the primary surface elevation up to the elevation of the horizontal surface zone.

(C) *Approach transitional zone (ATZ).* A zone perpendicular to the approach zone that extends outward and upward on a 7 to 1 slope from the sides of the approach zone a horizontal distance of 5,000 feet.

(D) *Horizontal surface zone (HSZ).* A horizontal plane lying 150 feet above the established airport or heliport elevation and extending a distance determined appropriate for that particular airport or heliport as set forth within Part 77 of the Federal Aviation Administration (FAA) Manual.

(E) *Conical zone (CZ).* A zone extending outward and upward from the outer edge of the horizontal zone at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

3.2.5.3 Uses

Notwithstanding any other provision of this subsection, and within the area below the horizontal limits of any zone established by this subsection, no use may be made of land or water in such manner as to:

(A) Create electrical interference with navigational signals or radio communications between the airport and the aircraft;

(B) Diminish the ability of pilots to distinguish between airport or heliport lights and other lights;

(C) Result in glare in the eyes of pilots using the airport or heliport;

(D) Impair visibility in the vicinity of the airport or heliport;

(E) Create the potential for bird strike hazards; or

(F) Otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft in the vicinity of and intending to use the airport or heliport.

3.2.5.4 Nonconforming Uses

(A) The regulations prescribed by this subsection shall not require the removal, lowering or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this subsection, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this subsection shall require any change in construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this subsection and is diligently prosecuted.

(B) Notwithstanding the provision of subsection (A) above the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation and maintenance thereon of whatever markers and lights shall be installed, operated and maintained at the expense of the airport or heliport owners, and not the owner of the nonconforming structure in question.

3.2.5.5 Development Standards

(A) Except as otherwise provided in this article, in any zone created by this subsection no structure shall be erected, altered or maintained, and no vegetation shall be allowed to grow to a height so as to penetrate any referenced zone identified in subsection 3.2.5.2.

(B) Where there exists a conflict between any of the regulations or limitations prescribed in this subsection and other regulations applicable to the same subject, where the conflict is with respect to the height of structures or vegetation and the use of land, or any other matter, the more stringent limitation or requirement shall govern.

3.2.5.6 Permits

(A) No structure shall be erected or otherwise established in any zone created by this subsection unless a permit has been applied for and granted. Each application for a permit shall indicate the purpose for which desired and with sufficient geometric specifically to determine whether the resulting structure would conform to the regulations prescribed in this subsection. No permit for a structure inconsistent with this subsection shall be granted unless a variance has been approved as provided below in this subsection.

(B) No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this subsection or any amendments thereto other than with relief as provided for in subsection 3.2.5.7.

(C) Whenever the Administrator determines that a nonconforming structure has been abandoned or more than 50 percent destroyed, physically deteriorated or decayed, no permit shall be granted that would enable such structure to be rebuilt, reconstructed or otherwise refurbished so as to exceed the applicable height limit or otherwise deviate from the zoning regulations contained in this subsection, except with the relief as provided for in 3.2.5.7.

3.2.5.7 Variances

(A) Any person desiring to erect or increase the height or size of any structure not in accordance with the regulations prescribed in this subsection may apply for a variance from such regulations to the Morganton Board of Adjustment (Board). No such variance shall be authorized except after notice and hearing, as required. Prior to being considered by the Board, the application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe efficient use of navigable airspace. Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this subsection.

(B) Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this subsection and be so conditioned as to require the owner of the structure in question to install, operate and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration or the Administrator. If deemed proper through the failure of the owner of the structure or with other reasonable cause by the Board, this condition may be modified to require the owner of the structure in question to permit the airport owner, at his own expense, to install, operate and maintain the necessary markings and lights.

3.2.6 Flood Damage Prevention Overlay (FDP-O)

Refer to the Flood Damage Prevention Ordinance.

3.2.7 Watershed Protection Overlay (WP-O)

Refer to the Watershed Protection Ordinance.

3.2.8 Phase II Stormwater Overlay (SW-O)

Refer to the Phase II Stormwater Regulations Ordinance.

3.3 Permitted Uses

3.3.1 Intent

The Permitted Uses Table contains a listing of uses which may be permitted in one (1) or more of the various zoning districts. Uses are listed in alphabetical order within eight (8) categories as follows:

(A) Agricultural

(B) Residential

(C) Civic, Government, and Institutional

(D) Office and Service

(E) Retail and Wholesale

(F) Recreation and Entertainment

(G) Industrial, Transportation and Utility

(H) Other

3.3.2 Determining Uses

(A) The listings of permitted uses in the various districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various districts. In determining proposed uses, the Administrator shall classify the form and function of the use. When a proposed use is not specifically listed in the Permitted Uses Table, the Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In order to assist the Administrator in interpretation of the Use Matrix, the North American Industrial Classification System (NAICS) shall be used to determine if a use is similarly material to a use in the Permitted Uses Table.

(B) In determining what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure services or is proposed to serve. An accessory use shall be considered a structure or use that:

(1) Is clearly incidental to and customarily found in connection with a principal building or use;

(2) Is subordinate to and serves a principal building or a principal use;

(3) Is subordinate in area, extent, or purpose to the principal building or principal use served;

(4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and

(5) Is located on the same lot and zones the same as the principal building or use served.

(C) Two (2) or more principal uses may occupy the same land or building as long as each use is a permitted use.

3.3.3 Table Key

The following is a list of the meanings of table entries:

(A) "P" indicates that the use is permitted by right in the zoning district.

(B) A blank space under a zoning district column indicates that a use is not permitted in that district.

(C) A section number listed in the "Conditions" column indicates that the use has additional conditions for the zoning district in which it is permitted. The section number refers to the regulations in Section 3.4.

TABLE 3.1: PERMITTED USES								
Agricultural Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Bona fide farms (excluding swine production, see Section 1.4.2 for ETJ exemption)	Not permitted in NC-O	P	P	P		P	P	3.4.1 (C)
Equestrian uses (horseback riding, stables)		P	P	P		P	P	3.4.1 (A)
Livestock and fowl keeping (accessory to residential use)		P	P	P		P	P	3.4.1 (B)
Livestock and fowl keeping (principal use)	Not permitted in NC-O	P						3.4.1 (C)
Greenhouse or horticultural nursery (no retail sales)	Not permitted in NC-O	P		P		P	P	
Produce Stand (permanent)	Not permitted in NC-O	P	P	P		P	P	3.4.1 (D)
Residential Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Accessory dwellings		P	P	P	P		P	3.4.2 (A)
Accessory structures (residential)		P	P	P	P		P	3.4.2 (B)
Bed & breakfast inns		P	P	P	P			3.4.2 (C)
Boarding and rooming houses	Not permitted in NC-O		P	P				
Family care homes		P	P	P	P		P	3.4.2 (D)
Home occupations, customary (includes daycare homes)		P	P	P	P		P	3.4.2 (E)
Home occupations, intensive	Not permitted in NC-O	P	P	P				3.4.2 (F)
Manufactured homes on individual lots-see Section 3.2.2	Only permitted in MH-O							
Multi-family dwellings (includes apartments & townhomes)	Not permitted in NC-O	P	P	P	P		P	3.4.2 (G)
Single-family dwellings (detached)		P	P	P	P		P	
Two-family dwellings (duplexes)	Not permitted in NC-O	P	P	P	P		P	
Civic, Government, & Institutional Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Cemeteries	Not permitted in NC-O	P	P	P			P	3.4.3 (A)
Colleges, universities, & associated facilities				P	P		P	
Community outreach offices	Not permitted in NC-O	P	P	P	P		P	3.4.3 (A & B)
Correctional facilities	Not permitted in C-O, RD-O			P	P	P	P	
Daycare centers, child and adult	Not permitted in NC-O	P	P	P	P		P	3.4.3 (A)
Emergency services (fire, police, EMT, & similar uses)	Not permitted in NC-O	P	P	P	P	P	P	3.4.3 (A)
Government office buildings	Not permitted in NC-O		P	P	P	P	P	3.4.3 (A)
Hospitals, public and private				P	P		P	

TABLE 3.1: PERMITTED USES								
Civic, Government, & Institutional Uses (continued)	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Libraries, museums, art galleries, & similar uses	Not permitted in NC-O		P	P	P		P	3.4.3 (A)
Post offices	Not permitted in NC-O		P	P	P		P	3.4.3 (A)
Religious institutions & related uses	Not permitted in NC-O	P	P	P	P		P	3.4.3 (A)
Research facilities				P	P	P	P	
Residential care facilities	Not permitted in NC-O		P	P			P	3.4.3 (A)
Residential shelters	Not permitted in NC-O		P	P			P	3.4.3 (A)
Schools, instructional (music, dance, martial arts, etc.)	Not permitted in NC-O	P	P	P	P	P	P	3.4.3 (A)
Schools & associated facilities (public & private)	Not permitted in NC-O	P	P	P	P	P	P	3.4.3 (A)
Schools (trade & vocational)	Not permitted in NC-O		P	P	P	P	P	3.4.3 (A)
Social, fraternal, & philanthropic clubs & lodges, & similar uses operated on a non-profit basis	Not permitted in NC-O		P	P	P		P	3.4.3 (A)
Office & Service Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Animal services (no outdoor kennels)	Not permitted in NC-O		P	P	P	P	P	3.4.4 (A)
Animal services (with outdoor kennels)	Not permitted in NC-O		P	P		P	P	3.4.4 (A & B)
Artists, craftsmen	Not permitted in NC-O		P	P	P	P		3.4.4 (A)
Banks, financial services	Not permitted in NC-O		P	P	P		P	3.4.4 (A)
Body art establishment (tattoos & body piercing)	Not permitted in C-O, RD-O			P				
Crematories				P		P	P	3.4.4 (C)
Dry cleaning and laundry services (non-industrial)	Not permitted in NC-O		P	P	P			3.4.4 (A)
Funeral homes and mortuaries	Not permitted in NC-O		P	P			P	3.4.4 (A)
Hotels and motels				P	P			
Motion picture production				P	P	P	P	
Motor vehicle and boat services (with or without outdoor storage, includes gas stations and car washes)				P		P		3.4.8 (C)
Medical, dental, chiropractic, optical, psychiatric offices	Not permitted in NC-O		P	P	P		P	
Personal service uses	Not permitted in NC-O		P	P	P		P	3.4.4 (A)
Professional offices	Not permitted in NC-O		P	P	P		P	3.4.4 (A)
Services, other (no outdoor storage)	Not permitted in NC-O		P	P	P	P	P	3.4.4 (A)
Services, other (with outdoor storage)				P		P		3.4.8 (C)

TABLE 3.1: PERMITTED USES								
Retail & Wholesale Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Auction Houses	Not permitted in RD-O			P	P	P		
Farmers' markets	Not permitted in NC-O		P	P	P	P	P	3.4.5 (A)
Microbreweries and wineries (with on-site sales)	Not permitted in NC-O		P	P	P	P		3.4.5 (A & B)
Motor vehicle or boat sales or rental				P		P		3.4.5 (C)
Pawn shops	Not permitted in RD-O		P	P	P			
Restaurants (no drive-through)	Not permitted in NC-O		P	P	P			3.4.5 (A)
Restaurants (with drive-through)	Not permitted in NC-O		P	P	P			3.4.8 (A & C)
Retail uses (less than 3,000 square feet, inside fully enclosed building)	Not permitted in NC-O		P	P	P			3.4.5 (A)
Retail uses (3,000 square feet or greater, inside fully enclosed building)				P	P			
Retail uses (outside fully enclosed building)				P				3.4.5 (D)
Wholesale (inside fully enclosed building				P		P		
Wholesale (outside fully enclosed building)						P		3.4.5 (D)
Recreation & Entertainment Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Adult oriented businesses	Not permitted in C-O, RD-O			P				3.4.6 (B)
Auditorium, assembly hall	Not permitted in NC-O		P	P	P		P	3.4.6 (A)
Banquet, events facility	Not permitted in NC-O		P	P	P		P	3.4.6 (A)
Campgrounds	Not permitted in NC-O, C-O		P	P			P	3.4.6 (A & C)
Electronic gaming operations				P				
Golf, tennis, swimming clubs & related uses (private, not in a development)	Not permitted in NC-O	P	P	P	P			3.4.6 (A)
Golf, tennis, swimming facilities, athletic fields & related uses (public)	Not permitted in NC-O	P	P	P	P	P	P	3.4.6 (A)
Motorsports competition and testing facilities				P		P		3.4.6 (D)
Night clubs, bars				P	P			
Parks (public)		P	P	P	P	P	P	
Private clubs				P	P			
Recreation facilities associated with a residential development		P	P	P	P			
Recreation facilities (indoor, private)				P	P	P	P	

TABLE 3.1: PERMITTED USES								
Recreation & Entertainment Uses (continued)	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Recreation facilities (indoor, public)	Not permitted in NC-O	P	P	P	P	P	P	3.4.6 (A)
Recreation facilities (outdoor, private-including golf driving ranges, miniature golf, skateboard parks, water slides, batting cages, go cart tracks, & similar uses)	Not permitted in C-O			P		P	P	3.4.6 (E)
Shooting ranges (indoor)				P		P	P	
Shooting ranges (outdoor-in association with local government only)						P	P	3.4.6 (F)
Theater (drive-in)				P		P		
Theater (indoor)	Not permitted in NC-O		P	P	P		P	3.4.6 (A)
Theater (open-air)	Not permitted in NC-O		P	P	P		P	3.4.6 (A & E)
Industrial, Transportation, & Utility Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Airports and heliports	Not permitted in C-O, RD-O			P		P		3.4.7 (B)
Asphalt plants, mixing plants, concrete and asphalt	Not permitted in C-O, RD-O					P		3.4.7 (C)
Automobile parking lots or garages (principal use)	Not permitted in NC-O		P	P	P	P		3.4.7 (A)
Bus and train stations	Not permitted in NC-O		P	P	P	P		3.4.7 (A)
Data centers				P		P		3.4.7 (D)
Distribution centers						P		
Electric transmission lines & appurtenances		P	P	P	P	P	P	
Junkyards, salvage yards, recycling operations and similar uses	Not permitted in C-O, RD-O					P		3.4.8 (C)
Landfill (construction, demolition, land clearing & inert debris)								
Landfill (sanitary)								
Manufacturing, processing, & assembly (inside fully enclosed building)				P		P		
Manufacturing, processing, & assembly (outside fully enclosed building)	Not permitted in C-O, RD-O					P		3.4.7 (E)
Mining & quarrying operations								
Natural gas distribution lines & related appurtenances		P	P	P	P	P	P	
Power generation/production facilities (not including wind and solar)	Not permitted in C-O, RD-O			P		P	P	
Power generation/production, solar (individual use)		P	P	P	P	P	P	3.4.7 (F)

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TABLE 3.1: PERMITTED USES								
Industrial, Transportation, & Utility Uses (continued)	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Power generation/production, solar (solar farm)	Not permitted in C-O, RD-O					P	P	3.4.7 (F)
Power generation/production, wind (individual use)	Not permitted in C-O, RD-O					P	P	3.4.7 (G)
Power generation/production, wind (wind farm)								
Rail terminals or yards						P		
Recycling centers (excluding recycling operations)				P		P	P	
Sewage collection lines, pump stations, & appurtenances		P	P	P	P	P	P	
Sewage treatment plants (non-government, public)	Not permitted in C-O					P	P	
Taxicab services				P	P	P		
Telecommunication lines & related appurtenances		P	P	P	P	P	P	
Telecommunications towers (may require Board of Adjustment approval-see Section 3.4.7 (H))	Not permitted in NC-O, C-O, or RD-O	P	P	P		P	P	3.4.7 (H)
Transit stops		P	P	P	P	P	P	3.4.7 (A)
Truck stops	Not permitted in C-O, RD-O			P		P		3.4.7 (I)
Warehouse uses (excluding mini-warehouses)				P	P	P	P	
Warehouse, mini	Not permitted in C-O, RD-O			P		P		
Water distribution lines, pumps, storage, tanks, & appurtenances		P	P	P	P	P	P	
Water treatment plants (public)						P	P	
Other Uses	**Overlay Exceptions**	**LID**	**MID**	**HID**	**CBD**	**EID**	**SID**	**Conditions**
Accessory structures (associated with permitted non-residential uses)		P	P	P	P	P	P	3.4.8 (A)
Business kiosks (ATMs, movies, ice vending, etc.)	Not permitted in NC-O		P	P				3.4.8 (A & B)
Drive-through/drive-in uses (associated with permitted use)	Not permitted in NC-O		P	P	P	P		
Outdoor storage (associated with a permitted use, excluding outdoor sales display)	Not permitted in C-O, RD-O			P	P	P		3.4.8 (C)
Temporary uses		P	P	P	P	P	P	3.4.8 (D)

3.4 Additional Conditions for Certain Uses

3.4.1 Agricultural Uses

(A) Equestrian facilities, riding/Boarding stables

(1) A five (5) acre minimum lot size is required for equestrian uses.

(2) Equestrian uses within the City limits shall be permitted and regulated by Article C of Chapter 2 of Part 8 of the Code of Ordinances.

(3) Common barns and stables and manure storage areas shall be located a minimum of 100 feet from any adjacent residentially used property.

(4) All unpaved areas shall be maintained in a manner to prevent dust from adversely impacting adjacent properties.

(5) Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light on adjacent property and to avoid the creation of a visual safety hazard to any adjacent right-of-way.

(B) Livestock and Fowl Keeping (accessory to residential use)

(1) A two (2) acre minimum lot size is required for the keeping of livestock and fowl of greater than 15 pounds as an accessory use to a residential use. A one (1) acre minimum lot size is required for the keeping of livestock and fowl of 15 pounds or under as an accessory use to a residential use.

(2) The keeping of livestock and fowl as an accessory to a residential use shall not include commercial production.

(3) The raising of livestock, fowl, and rabbits within the City limits shall be permitted and regulated by Article C of Chapter 2 of Part 8 of the Code of Ordinances. Swine are prohibited.

(4) No structure or barn for the keeping of livestock or fowl shall be located closer than 50 feet to any property line and 100 feet to any dwelling unit other than the owner's residence.

(C) Livestock and Fowl Keeping (principal use)

(1) A 10 acre minimum lot size is required for the keeping of livestock and fowl as a principal use.

(2) The raising of livestock, fowl, and rabbits within the City limits shall be permitted and regulated by Article C of Chapter 2 of Part 8 of the Code of Ordinances. Swine are prohibited.

(3) No structure or barn for the keeping of livestock or fowl shall be located closer than 50 feet to any property line and 100 feet to any dwelling unit other than the owner's residence.

(D) Produce Stands-permanent (See Section 3.4.8 (D) (4) for temporary produce stand requirements)

(1) A permanent produce stand shall be allowed as an accessory use to a bona fide farm operation only. All produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located. Permanent produce stands shall only be located on streets classified as collectors, minor arterials, or major arterials. All other produce stands shall be considered temporary uses and shall follow the special requirements for temporary uses.

(2) A produce stand shall not be located in a street right-of-way.

(3) A produce stand shall not be located closer than 10 feet to any side lot line unless a greater setback is required for the zoning district in which it is located.

(4) Signs for a produce stand shall not be illuminated, nor shall they exceed four (4) square feet in area. Off-premises signs are not permitted.

(5) During the times of the year in which the produce stand is not in operation, the stand shall be properly closed up and maintained.

3.4.2 Residential Uses

(A) Accessory Dwellings

Accessory apartments may be created on the same property as a single-family residential dwelling as an accessory use, only if such units comply with the following requirements:

(1) The accessory dwelling must meet all standards of the minimum housing code for an independent living unit.

(2) Detached accessory dwellings shall only be located in the side or rear yard of the principal dwelling.

(3) No additional doors may be installed on the front façade of the principal dwelling to access the accessory dwelling.

(4) Detached accessory structures shall be similar in design and materials to the principal dwelling unit where visible from the public street.

(5) The accessory dwelling shall not exceed one-half (½) of the total area of the principal dwelling or 900 square feet, whichever is greater, but in no case shall exceed that of the principal dwelling.

(6) Accessory dwellings shall meet the principal structure setbacks as set forth for the zoning district in which it is located in Section 3.4.

(7) Accessory dwellings shall be built to North Carolina Building Standards.

(B) Accessory Structures (Residential)

(1) No accessory structure shall be erected in any front yard as defined by this Ordinance, unless located on a lot of greater than two (2) acres and set back a minimum of 150 feet from the fronting street.

(2) Accessory structures shall be set back a minimum of six (6) feet from the side and rear property lines. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located.

(3) No residential lot within the LID and MID zoning districts shall have more than two (2) accessory structures (excluding swimming pools). The total area of all accessory structures on a residential lot shall not exceed one-half (1/2) of the total square footage of the principal dwelling. In the LID and the MID, lots two (2) acres or greater in size are exempt from these limitations on number and

size of accessory structures, provided that any structure that exceeds the limitations shall be set back a minimum of 20 feet from any property line. The accessory structure size and number restrictions stated herein do not apply to the HID zoning district.

(4) The maximum height for accessory structures shall be the height of the principal structure, except that the maximum height for accessory structures on lots of greater than two (2) acres shall be the maximum district height.

(5) Detached accessory structures shall be similar in design and materials to the principal dwelling unit where visible from the public street.

(6) Mailboxes, newspaper boxes, birdhouses, flagpoles, satellite dishes of less than two (2) feet in diameter and pump covers may be placed in any yard, and no zoning permit is needed for these structures.

(7) No accessory structure shall be permitted that involves or requires any external features which are not primarily residential in nature or character.

(8) Under no circumstances may a vehicle, tractor trailer, manufactured home, recreational vehicle, POD or similar container be used as an accessory structure.

(9) Swimming pools shall meet the requirements of Appendix G of the North Carolina Residential Building Code.

(10) Temporary health care structures as defined by NCGS 160A-383.5 are permitted as residential accessory structures provided that the following conditions are met:

(a) The structure is primarily assembled at a location other than its site of installation.

(b) There is no more than one (1) occupant who shall be the mentally or physically impaired person.

(c) The structure has no more than 300 gross square feet.

(d) The structure complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). A permanent foundation shall not be required or permitted.

(e) The permit for such structure shall be renewed annually upon demonstrating continued compliance with this Section.

(f) The structure shall be connected to water, sewer, and electric utilities to comply with State law.

(g) No signage is permitted.

(h) The structure shall be removed within 60 days of a mentally or physically impaired person no longer receiving assistance from the structure.

(C) Bed and Breakfast Inns

(1) Shall be prohibited from Neighborhood Conservation Overlays (NC-O) within the LID Zoning district.

(2) Within the LID and the MID the use shall only be permitted if access is taken from streets classified as collectors and arterials as shown on the Morganton Thoroughfare Classification Map.

(3) The maximum number of rooms for rent shall be five (5).

(4) Accessory structures may be used for rooms.

(5) No more than two (2) employees not residents on the property shall be employed at the facility and the operator shall reside on the premises.

(6) Shall not be used as a restaurant, assembly hall or meeting facility or other non-traditional single family residential activity.

(D) Family Care Homes

In accordance with NC General Statute Chapters 122C, 131D and 168, these uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

(1) No more than six (6) residents other than the operator and operator's immediate family are permitted to live in a Family Care Home.

(2) A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.

(3) No Family Care Home may be located within a Low Intensity District (LID) or within a Neighborhood Conservation Overlay (NC-O) if it is within a one-half (1/2) mile radius of any other family care home.

(4) No exterior signage is permitted.

(5) No lockdown, violent, or dangerous residents.

(6) Only incidental and occasional medical care may be provided.

(E) Home Occupation, Customary

(1) Only professional uses which do not involve retail trade shall be allowed on premises.

(2) Only one (1) person other than those residing in the home shall be engaged in the occupation.

(3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation. Accessory structures equaling no more than 25 percent of the size of the dwelling unit may be used as part of a customary home occupation.

(4) Sufficient off-street parking shall be provided to ensure that all vehicles will be parked off of the public right-of-way within a driveway or other on-site designated parking area.

(5) Traffic generated by a customary home occupation shall not exceed volumes normally expected in a residential neighborhood.

(6) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except one (1) on-premises non-illuminated sign not exceeding four (4) square feet.

(7) Clients shall only visit the home occupation between the hours of 7:00am and 9:00pm.

(8) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

(9) A family day care home with five (5) or fewer pre-school aged children and/or three (3) or fewer school aged children may be operated as a customary home occupation, provided that any outdoor play areas shall be screened from adjacent residentially-used property by a Type 1 buffer in accordance with Section 4.4.3.1 or an opaque fence that meets the requirements of Section 4.4.9.

(10) Tattoo and/or body piercing operations shall not be considered as home occupations.

(F) Home Occupation, Intensive

(1) Intensive home occupations shall not be permitted in multi-family residential dwellings.

(2) Only "animal services (no outdoor kennels)", "artists, craftsmen", "personal service uses", "professional offices", and "services, other (no outdoor storage)" as defined by this Ordinance shall be allowed on premises. Such home occupations shall not involve retail trade.

(3) No more than two (2) persons other than those residing in the home shall be engaged in the occupation.

(4) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(5) An accessory structure meeting the requirements of subsection (B) may be used for an intensive home occupation.

(6) Sufficient off-street parking shall be provided to ensure that all vehicles will be parked off of the public right-of-way within a driveway or other on-site designated parking area.

(7) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except one (1) non-illuminated sign not exceeding four (4) square feet. Any outdoor storage shall be screened in accordance with the requirements of Section 4.4.7.

(8) Clients shall only visit the home occupation between the hours of 7:00am and 9:00pm.

(9) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

(10) Tattoo and/or body piercing operations shall not be considered as home occupations.

(G) Multi-Family Dwellings

In addition to the Performance Standards for residential uses in Article 4, multi-family dwelling shall meet the following requirements:

(1) No multi-family dwellings or series of attached dwellings, multi-family building or other such arrangements shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units.

(2) Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of that Act by recording the declaration and plan with the Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer shall comply with the development requirements of this Ordinance.

(3) In no case shall any building be closer than 20 feet to any other building in the development. Furthermore, buildings shall not be arranged in straight rows oriented in such a way as to resemble rows of barracks.

(4) All main utility lines, meters, taps and other appurtenances, up to and including the meter for each individual unit, (but not including the service lines and other facilities extending service to each individual unit) shall be built to the same standard as required for developments. All such facilities, together with an easement of sufficient width, shall be conveyed to and/or dedicated to the City for public use and maintenance. All utilities shall be placed underground.

(5) Each unit shall be individually metered for all utilities. Responsibility for the maintenance of common utility lines and/or facilities, which have not been conveyed to the City and/or dedicated for public use shall be the responsibility of the project owner, or in the case of unit ownership clearly established in the declaration, protective covenants and other bylaws.

(6) All streets or access ways providing ingress and egress from the development to an existing public street system shall comply with the current standards being required by the infrastructure regulations of the Subdivision Ordinance.

(7) Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the

containers and to leave the property without excessive backing. Such containers shall be screened in accordance with Section 4.4.7.

3.4.3 Civic, Government and Institutional Uses

(A) Civic, Government, and Institutional Uses in the LID and MID Districts

(1) All such uses within LID or MID districts shall be on a minimum lot size of 20,000 square feet and shall not be within a Neighborhood Conservation Overlay. All structures shall be set back a minimum of 50 feet from any Neighborhood Conservation Overlay.

(2) Such uses shall only take their access directly from streets that meet commercial street standards as set forth in the City of Morganton Engineering Standards and Specifications. The uses indicated in the table below shall only take their access from streets classified as collectors and arterials as shown on the Morganton Thoroughfare Classification Map:

TABLE 3.2: CIVIC, GOVERNMENT AND INSTITUTIONAL USES STREET ACCESS

Use	Collector Street	Minor or Major Arterial
Emergency services	✓	✓
Government office buildings	✓	✓
Libraries, museums, art galleries, & similar uses	✓	✓
Post Office		✓
Religious institutions & related uses	✓	✓
Residential care facilities	✓	✓
Residential shelters	✓	✓
Schools, instructional	✓	✓
Schools (public & private)	✓	✓
Schools (trade & vocational		✓
Social, fraternal,& philanthropic clubs & lodges, & similar uses		✓

(3) Such uses shall meet the performance standards of Article 4. In addition to the non-residential building design standards in Section 4.8.6, non-residential buildings in the LID and MID districts within 250 feet of residential structures (whether or not they are currently being used for residential purposes) shall have a pitched roof and use wood or vinyl siding as a secondary building material on 25-50 percent of the primary and secondary facades.

(B) Community Outreach Office

Community Outreach Offices are permitted subject to requirements of subsection (A) above and the following:

(1) No 24-hour occupancy shall occur at a community outreach office location.

(2) No more than two (2) cars per counselor/teacher and one (1) other employee with a limit of five parking spaces (no on-street parking)

(3) Hours of operation. Hours of operation limited to the non-peak hours between 8am and 6pm.

(4) One freestanding sign no larger than four (4) square feet shall be allowed. No other type of signage shall be permitted.

(5) All operation shall take place within the principal structure only.

(6) For apartments or developments (subdivisions, townhomes) which have a centralized building intended for use by residents, this building may be used for this purpose.

(7) Facilities such as churches and schools intended for common use by all residents within a particular area may be used for this purpose.

3.4.4 Office and Service Uses

(A) Office and Service Uses in the LID and MID Zoning Districts

(1) All such uses within the LID and MID districts shall be a minimum lot size of 20,000 square feet and shall not be within a Neighborhood Conservation Overlay. All structures shall be set back a minimum of 50 feet from any Neighborhood Conservation Overlay.

(2) Such uses shall only take their access directly from streets that meet commercial street standards as set forth in the City of Morganton Engineering Standards and Specifications. The uses indicated in the table below shall only take their access from streets classified as collectors and arterials as shown on the Morganton Thoroughfare Classification Map:

TABLE 3.3: OFFICE AND SERVICE USES STREET ACCESS

Use	Collector Street	Minor or Major Arterial
Animal services (with and without outdoor kennels)		✓
Artists, craftsmen	✓	✓
Banks, financial services		✓
Dry cleaning and laundry services		✓
Funeral homes & mortuaries		✓
Medical, dental, chiropractic, optical, psychiatric clinics, offices, & laboratories		✓
Personal service uses	✓	✓
Services (no outdoor storage)		✓

(3) Such uses shall meet the performance standards of Article 4. In addition to the non-residential building design standards in Section 4.8.6, non-residential buildings in the LID and MID districts within 250 feet of residential structures (whether or not they are currently being used for residential purposes) shall have a pitched roof and use wood or vinyl siding as a secondary building material on 25-50 percent of the primary and secondary facades.

(B) Animal Services (with outdoor kennels)

(1) No outdoor containment of animals shall be located less than 250 feet from any LID or NC-O district and 50 feet from any other adjacent property line.

(2) Kennel areas must be surrounded by an opaque fence of not less than six (6) feet in height and enclosed as to prevent escape.

(3) Kennels shall be designed to effectively buffer noise audible to surrounding properties.

(C) Crematories

(1) No crematory shall be established in the HID district, except as an accessory use to a funeral home or animal services establishment properly licensed by the State of North Carolina and shall not contain more than one cremation chamber.

(2) All crematories shall have a licensed crematory manager on staff and obtain and keep in full force and affect all other license required under the North Carolina Crematory Act, as amended or superseded from time to time.

(3) No crematory use may be established on a lot or parcel within 400 feet of any LID district.

(4) A crematory must comply and remain in compliance with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina Board of Funeral Services.

(5) A crematory must comply and remain in compliance with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina Board of Funeral Services.

3.4.5 Retail and Wholesale Uses

(A) Retail Uses within the MID District

(1) All such uses within the MID district shall have a minimum lot size of 20,000 square foot and shall not be within a Neighborhood Conservation Overlay. All structures shall be set back a minimum of 50 feet from any Neighborhood Conservation Overlay.

(2) Such uses shall only take their access directly from streets that meet commercial street standards as set forth in the City of Morganton Engineering Standards and Specifications. The uses indicated in the table below shall only take their access from streets classified as arterials as shown on the Morganton Thoroughfare Classification Map:

TABLE 3.4: RETAIL AND WHOLESALE USES STREET ACCESS

Use	Collector Street	Minor or Major Arterial
Farmer's Markets		✓
Microbreweries & Wineries		✓
Pawn shops		✓
Restaurants		✓
Retail uses		✓
Farmer's Markets		✓
Microbreweries & Wineries		✓
Pawn shops		✓

(3) Such uses shall meet the performance standards of Article 4. In addition to the non-residential building design standards in Section 4.8.6, non-residential buildings in the LID and MID districts within 250 feet of residential structures (whether or not they are currently being used for residential purposes) shall have a pitched roof and use wood or vinyl siding as a secondary building material on 25-50 percent of the primary and secondary facades.

(B) Microbreweries and Wineries

In the Central Business District:

(1) Only those operations that meet federal standards may be located within the CBD district.

(2) The production cannot exceed 500,000 gallons per year. The operations are typically small occupying no more than 10,000 square feet of production space.

(3) The use shall have no more than two (2) loading docks. The docks must be located off of the public street.

(4) The maximum height accessory structures associated with Microbreweries and Wineries in the CBD is the maximum district height set forth in Section 4.2.4.

(C) Motor Vehicle or Boat Sales or Rental

(1) Restroom facilities built in accordance with NC Building Code shall be located on the premises.

(2) The lot shall front on a collector or arterial street and have direct access thereto.

(3) No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.

(4) No vehicle or boat shall be stored or displayed within the right-of-way of any public street.

(5) A North Carolina auto manufacturer dealership license shall be obtained prior to occupancy and shall be prominently displayed at the place of business.

(D) Retail Sales (outside fully enclosed building)

(1) Restroom facilities built in accordance with NC Building Code shall be located on the premises.

(2) Items for sale shall not be displayed within any right-of-way.

(3) No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.

3.4.6 Recreation and Entertainment Uses

(A) Recreation and Entertainment Uses within the LID and MID Districts

(1) All such uses within the LID and MID districts shall have a minimum of one (1) acre and shall not be within a Neighborhood Conservation Overlay. All structures shall be set back a minimum of 50 feet from any Neighborhood Conservation Overlay.

(2) Such uses shall only take their access directly from streets meet that meet commercial street standards as set forth in the City of Morganton Engineering Standards and Specifications. The uses indicated in the table below shall only take their access from streets classified as arterials as shown on the Morganton Thoroughfare Classification Map:

TABLE 3.5: RECREATION AND ENTERTAINMENT USES STREET ACCESS

Use	Collector Street	Minor or Major Arterial
Auditorium, assembly hall		✓
Banquet, events facility		✓
Campgrounds		✓
Recreation Facilities, indoor		✓
Theater, Open Air		✓

(3) Such uses shall meet the performance standards of Article 4. In addition to the non-residential building design standards in Section 4.8.6, non-residential buildings in the LID and MID districts within 250 feet of residential structures (whether or not they are currently being used for residential purposes) shall have a pitched roof and use wood or vinyl siding as a secondary building material on 25-50 percent of the primary and secondary facades.

(B) Adult Oriented Businesses

(1) No adult establishment shall be located within 500 feet of any residentially-used property or any LID or MID zoning district; and/or within 1,000 feet of a property line of any school, park, church, or similar place of religious service; and/or within one-half mile of any other adult establishment.

(2) No adult establishment shall be issued a zoning permit until all City license requirements, set forth in 6-1201 of the Morganton Code of Ordinances, have been met. Further the establishment must comply with all requirements set forth in Article 26A Section 14-202.11 of the NC General Statutes as amended.

(3) The adult establishment must be conducted within an enclosed building so that viewing, display, or sound from inside the building cannot be experienced outside the walls of the building.

(4) Any building containing an adult establishment must be at least 50 feet from all property lines.

(5) Signs shall not contain materials, words, objects, images or displays that suggest or relate to specified anatomical areas and/or specified sexual activities as defined by NCGS 14-202.10, or contain display that has been determined by community standards to be harmful to minors as defined by NCGS 14-190.13-15.

(C) Campgrounds

(1) The following yard requirements are hereby established:

(a) Along any public street or public right-of-way, a setback of at least 40 feet from the edge of the public right-of-way shall be maintained.

(b) A distance of at least 10 feet shall be maintained between trailers, tents, and/or structures. Any accessory structures such as attached awnings, carports or individual storage facilities, shall for the purpose of this requirement, be considered a part of the trailer, tent, or structure.

(2) A recreational area of not less than 10 percent of the gross site area or 2,500 square feet, whichever is greater, shall be maintained in a central and convenient location to all trailer spaces.

(3) The lot for the campground shall be a minimum of five (5) acres.

(4) The density shall not exceed 15 camping spaces per acre of gross area.

(5) Adequate off-street parking and maneuvering space shall be provided on site. The use of any public street, sidewalk or right-of-way or any other private grounds not a part of the travel trailer parking area for the parking or maneuvering of vehicles is prohibited.

(6) All internal roadways shall be stabilized and of adequate width to accommodate the volume and type of anticipated traffic, and in any event, shall comply with the following minimum requirements:

(a) Internal one-way roadway and roadways on which parking is prohibited shall not extend for more than 500 feet in total length; serve less than 25 trailer spaces; and be at least 11 feet in width.

(b) Internal one-way roadway and roadways on which parking is permitted on one side and two-way roadways which do not allow parking shall be at least 24 feet in width.

(c) Internal two-way roadways which permit parking on one side only shall be at least 27 feet in width.

(d) Internal two-way roadways which permit parking on both sides shall be at least 34 feet in width.

(7) Each camping space for travel trailer parking area shall be connected to an approved water supply system which provides an accessible, adequate, safe and potable supply of water.

(8) An adequate and safe sewer system shall be provided in all camping areas. Such system shall be designed, constructed and maintained in accordance with all City, county and state requirements.

(9) A central service building containing all necessary toilets, bathhouses and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided in all travel trailer parking areas. Service building shall be conveniently located within a radius of 300 feet to spaces which it serves.

(10) The storage, collection and disposal of trash and reuse in the travel trailer parking area shall comply with all applicable City, county and state regulations.

(11) Neither any person nor any mobile unit shall occupy a trailer space or the travel trailer parking area for a period in excess of 30 days within any three (3) month period. A register of all occupants, the space occupied, and the time of arrival and departure shall be maintained.

(D) Motorsports Competition and Testing Facilities

(1) Minimum lot size for all such developments shall be five (5) acres.

(2) No such facility or improvements shall be located within 100 feet of any property line.

(3) Buildings in which competitions or testing are taking place shall be adequately sound insulated so that noise outside of buildings shall not exceed the ambient noise levels at adjacent property lines.

(4) No outdoor equipment, machinery, or mechanical device of any kind may be operated within 2,500 feet of any LID or MID zoned property or residentially used property line.

(E) Recreation Facilities (outdoor, private-including golf driving ranges, miniature golf, skateboard parks, water parks, batting cages and similar uses)

(1) Minimum lot size for all such developments shall be one (1) acre.

(2) No such facility or improvements shall be located within 50 feet of any property line.

(3) No amusement equipment, machinery, or mechanical device of any kind may be operated within 200 feet of any LID or MID zoned property or residentially, used property.

(F) Shooting Ranges (outdoor-in association with government only)

(1) No such facility shall locate within a 500 foot radius of any LID, MID, HID, CBD district or any residentially-used property.

(2) Security fencing shall be provided along the entire boundary of such a facility.

(3) The facility and its operation shall observe all Fire Prevention and Protection requirements.

3.4.7 Industrial, Transportation, and Utility Uses

(A) Industrial, Transportation, and Utility Uses within the MID District

(1) All such uses within the LID and MID districts shall have a minimum of one (1) acre and a maximum of three (3) acres shall not be within a Neighborhood Conservation Overlay. All structures shall be set back a minimum of 50 feet from any Neighborhood Conservation Overlay.

(2) Such uses shall only take their access directly from streets meet that meet commercial street standards as set forth in the City of Morganton Engineering Standards and Specifications. The uses indicated in the table below shall only take their access from streets classified as arterials as shown on the Morganton Thoroughfare Classification Map:

TABLE 3.6: INDUSTRIAL, TRANSPORTATION, & UTILITIES USES STREET ACCESS

Use	Collector Street	Minor or Major Arterial
Bus and train stations		✓

(3) Such uses shall meet the performance standards of Article 4.

(B) Airports and Heliports

(1) A configuration diagram depicting the layout of runways, taxiways, approach zones and overrun areas shall be submitted with the application. These diagrams shall also be depicted on aerial photographs that also show the area within five (5) miles of the proposed site.

(2) A plan indicating isotonic contours that show the effects of aircraft operations upon land within one (1) mile of the boundary of the proposed site shall be submitted with the application.

(3) The number and type of aircraft proposed to be stored including the storage area for aircraft, fuel and motor vehicles and service areas for the aircraft shall be documented in the application and on the submitted site plan.

(4) A statement as to how on-site fire and rescue services will be provided, and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility, shall be submitted with the application.

(5) A list of land uses within the final approach zones of the airport/heliport shall be submitted with the application.

(6) A certification that all Federal Aviation Administration (FAA) and State standards and requirements have been, or will be, met shall be submitted with the Zoning Permit application.

(7) A minimum of 50 acres is required for Basic Utility Stage 1 airports with a 2,000-foot runway. Additional area is required for larger airports.

(8) Airport and heliport size and layout shall conform to FAA Advisory Circular 150/5300-4B.

(9) There shall be a minimum 300-foot distance between the airport/heliport facility and the nearest residence.

(10) Security fencing shall be provided that is sufficient to control access to runways and taxiways. The fencing shall be a minimum of six (6) feet in height.

(11) The site and its operations shall not adversely affect existing adjacent land uses.

(12) The land required for the provision of approach zones and overrun areas shall be owned or controlled by the applicant.

(13) Adequate land area shall be provided for all of the proposed uses, buildings and storage areas.

(14) Screening of buildings, storage and maintenance areas shall be provided from adjacent LID, MID, HID, CBD or residentially-used land.

(15) A finding shall be made that compatible land uses are located in the final approach areas of the airport.

(C) Asphalt Plants, Mixing Plants, Concrete and Asphalt

(1) Any asphalt plant operations shall be located at least 50 feet from any property line.

(2) Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of the operation.

(3) Within one year after the cessation of production, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.

(4) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion of silting neighborhood properties or public drainage ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course.

(5) All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(6) Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.

(7) Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way.

(8) Truck routes to and from the site shall be followed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

(D) Data Centers & Call Centers

Data centers and call centers shall not be larger than 10,000 square feet of gross floor area within the CBD zoning district.

(E) Manufacturing (outside of a fully enclosed building)

Any manufacturing that takes place outside of fully enclosed building shall be set back a minimum of 500 feet from any adjacent street right-of-way or LID, MID, HID or CBD zoned or residentially used property and shall not emit any smoke, dust, odor, noise, or vibration perceptible to regular senses at the property line.

(F) Power Generation, solar (individual and farm)

(1) A maximum of 50 percent of a parcel may be used for a solar farm.

(2) Systems, equipment and structures that are part of a solar farm shall not exceed 15 feet in height when ground mounted.

(3) Except in the EID zoning district, roof mounted systems shall not exceed the maximum height for the applicable zoning district and shall not project more than one (1) foot above the surface of the roof on pitched roofs, and shall not project above the parapet wall on flat roofs.

(4) Ground-mounted solar energy systems as part of a solar farm shall meet the minimum zoning setback for the zoning district in which it is located.

(5) To the extent practical, all new distribution lines to any building, structure or utility connection shall be located below ground.

(6) It is the responsibility of the system owner or property owner to remove all obsolete or unused systems within 12 months of cessation of operations.

(G) Power Generation, wind

(1) An individual use wind power generation facility shall be a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less.

(2) Setbacks for Wind Energy Facilities shall be as follows:

TABLE 3.7: WIND TURBINE SETBACKS

Minimum Setback Multiplier [1]			
From Occupied Buildings on Participating Landowner Property	From Occupied Buildings on Non-Participating Landowner Property	From Property Lines on Non-Participating Landowner Property	From Public Roads
2	2.5	2	2

[1] The setback is calculated by multiplying the required setback number by the wind turbine height and measured from the center of the wind turbine base to the property line, Public Road, or nearest point on the foundation of an occupied building.

(3) The visual appearance of wind turbines shall at a minimum:

(a) Be a non-obtrusive color such as white, off-white or gray;

(b) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and,

(c) Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

(4) The wind turbine owner shall have six (6) months to complete decommissioning of the turbine if no electricity is generated for a continuous

period of 12 months. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities.

(H) Telecommunications Towers

(1) ***Findings.*** The proliferation of telecommunication towers create visual blight that detracts from the natural and historical scenic beauty of this area. Further, towers which are not properly erected are subject to collapse and create a risk of damage to property as well as personal injury. Because of the effects that telecommunication towers may have on the general health, happiness, welfare and safety of Morganton and its citizens, reasonable regulations will balance the need for some regulation and the need for telecommunication systems.

(2) ***Policy.*** It is the policy of the City of Morganton that the visual impact of telecommunication towers and/or antenna should be minimized through the use, where feasible, of alternative tower structures. If alternative tower structures are not available or it is technically or economically not feasible to use an alternative tower structure, then the joint or multiple use of a single tower in less objectionable locations by different communication companies (sometimes called "co-location") should be and is encouraged, so as to minimize the need to construct new towers and to minimize the overall number of towers throughout the City. This section is intended to implement that policy.

(3) ***Approval Required.*** It shall be unlawful for any person to erect, locate, construct or relocate a telecommunication tower and/or antenna within the zoning jurisdiction of the City of Morganton without first obtaining a zoning approval permit issued in accordance with this section. The permit may be issued by the Zoning Administrator under the circumstances set forth in Paragraph (4) below. Otherwise, the permit may be issued by the Board of Adjustment in accordance with Paragraph (5) below. All permits shall be subject to the requirements at Paragraph (6) and those requirements shall be deemed to be a part of the permit. Notwithstanding the above, permits shall not be required for residential television antennas, satellite dishes, and satellite earth stations or amateur radio towers owned and operated by an amateur radio operator licensed by the Federal Communication Commission (FCC) if such antenna are used for residential purposes only and are not used for commercial purposes. The application for the permit shall be made on the form provided by the Zoning Administrator. All information requested on the permit shall be accurately set forth specifically including an inventory of the applicants, existing tower sites, proposed tower sites, and the relevant

location by grid, height, and design of each side located within the zoning jurisdiction.

(4) ***Administrative Approval.*** The Development and Design Services Department shall have the authority to issue the permit if the application is complete; that the proposed tower will comply with the specific requirements of Paragraph (6) below; and, that the application seeks approval of a tower for one or more of the following situations:

(a) The installation of an additional antenna on any pre-existing tower (co-location) or on any nonresidential structure (i.e., a commercial building, sign, light pole, water tower, etc.) so long as the additional antenna does not result in more than a 20 percent increase in the total height of the existing tower or structure. New buildings used for the additional antenna shall comply with the same requirements as a principal building within the zoning district proposed.

(b) The construction of any new telecommunications tower within any EID zoning district provided that the tower shall comply with all other requirements within that district.

(c) The installation of any alternative tower structure, within a permitted district up to 100 feet that is consistent with the surrounding community, buildings, and environment.

(d) The replacement of any existing telecommunication tower which adds no more than 20 feet to the overall height of the existing structure.

In issuing the permit authorized above, the Administrator may attach reasonable conditions to the permit to assure continued compliance with this section and may waive any requirement of Paragraph (6) which (in the discretion of the Administrator) is not applicable.

(5) ***Board of Adjustment Approval.*** The Board of Adjustment shall consider and issue, if appropriate, permits for the construction, erection, location and relocation of telecommunication towers in all cases where the Administrator is without authority to issue the permit. Based upon the information and record before the Board of Adjustment, the Board shall issue the permit if the Board finds that the application is complete; that the proposed tower will meet all of the requirements of Paragraph (6); and, that the issuance of the permit will help accomplish the policy set forth in Paragraph (2).

In making its determination as to whether the permit should be issued allowing the construction of a telecommunications tower in the MID or HID

zoning districts the Board shall, among other things, consider and make appropriate findings regarding the following:

- The availability of alternative tower structures;
- The availability of co-location of joint use facilities;
- Whether the proposed location will provide a minimum level or optimum level of signal coverage (the maximum level being desirable);
- The technical requirements that the proposed tower be located on the proposed site; and
- The visual impact on the surrounding area, especially naturally scenic areas or historic districts.

In considering the application and for the purpose of establishing a factual basis for its findings, the Board may require the applicant to provide evidence in support of the application including, among other things:

(a) Copies of letters sent to owners of all existing towers within one mile radius of the proposed site, requesting (i) tower height, (ii) existing and planned tower users, (iii) whether the proposed antenna cannot be accommodated on the existing tower, (iv) any assessment as to whether the existing tower could be structurally strengthened or whether the antennas, transmitters and related equipment could be protected from electromagnetic interference, and (v) a general description of the means and projected costs of the shared use of existing tower space.

(b) A summary explanation as to why the applicant believes the proposed facility cannot be located on an existing tower including technical specifications and engineering assessments.

(c) A summary explanation as to why the applicant believes that the use of an alternative tower structure is not feasible.

(d) Engineering reports, studies and assessments demonstrating that the location of the tower in the proposed district is necessary in the interest of public safety or is a practical necessity or technical requirement and will provide the highest optimum level of coverage.

(e) Evidence that the proposed tower is structurally designed to support at least one additional user together with a statement that the owner of the tower is willing to permit one or more other users to attach its antennas to the towers on a commercially reasonable basis which will not interfere with the primary purpose of the tower.

(f) A site plan indicating compliance with Paragraph (6) below. The site plan shall indicate a location for at least one equipment building in addition to that proposed for use by the applicant.

Based upon its findings, the Board of Adjustment shall have the authority to attach additional conditions to the issuance of its permit in order to assure compliance with this section and may waive or vary any requirements of this section which are not applicable to that specific application or which interferes with the implementation of the policy set forth in Paragraph (2).

(6) ***Specific Requirements.*** The following requirements are applicable to telecommunication towers and antennas erected or constructed after April 7, 1997 and unless specifically waived or varied, the applicant and/or the owner of such tower shall be responsible for seeing that the tower remains in compliance with the requirements at all times:

(a) Antennas and towers may be considered either principal or accessory uses.

(b) Communication towers shall be constructed and shall at all times remain in compliance with the applicable building codes, safety codes and other rules and regulations issued by the FAA, the FCC, or any other federal, state or local authority. Further, communication towers shall not be located or operated in a manner that restricts or interferes with air traffic or air travel to or from any existing or proposed airport including local airports. Specifically, an approval letter issued by the FAA shall be required for each new tower site.

(c) The base of the tower shall be enclosed by a decay resistant security fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a limited access building at least eight (8) feet in height. Anti-climbing devices shall be installed on all towers.

(d) Unless specifically required or authorized by either the FCC or the FAA or by some other federal or state authority, no illumination shall be permitted on any antenna or tower.

(e) The outside storage of personal property, materials and equipment is prohibited and the entire tower site shall comply with all local ordinances relating to nuisances and the proper maintenance of the premises.

(f) All towers shall either maintain a galvanized steel finish, or, subject to any other applicable standards of the FAA, FCC or other federal or state regulatory authority, be painted a neutral color so as to minimize any adverse visual impact.

(g) New towers shall comply with a minimum setback of 50 feet; except, where the tower is adjacent to property used for residential purposes, the setback shall equal one (1) foot for each foot in tower height.

(h) All new telecommunication towers or relocated telecommunication towers shall be structurally designed to support at least one additional user. The applicant or owner shall provide a statement that the owner is willing to permit an additional user to attach communication facilities, on a commercially reasonable basis, to the tower so long as the additional user does not interfere with the primary purpose of the tower. The site plan shall indicate a location for at least one additional equipment building for use by a second user. The statement and site plan shall be attached to the permit.

(i) Standard screening in accordance with Section 4.4.7 shall be installed around the perimeter of all improvements on the tower site.

(j) Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and shall be removed. If such antenna or tower is not removed within 60 days of receipt of written notice from the City, the City may remove such tower and/or antenna and place a lien upon the property for the cost of removal.

(I) Truck Stops

(1) All structures including secondary, accessory structures, or parking areas shall be located no closer than 250 feet from any LID or MID zoning district or the property line of any residentially-used property.

(2) The property shall have direct frontage on a major arterial street that has a fully dedicated center turn lane. All access drives shall be oriented toward the arterial street.

3.4.8 Other Uses

(A) Accessory Structures (non-residential)

(1) Non-residential accessory structures within the EID zoning district are exempt from the requirements below.

(2) No accessory structure shall be erected in any front yard, as defined by this Ordinance.

(3) Accessory structures shall be set back a minimum of six (6) feet from the side and rear property lines. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located.

(4) No accessory building shall be erected within 10 feet of any other building.

(5) There shall be a principal structure on any lot for which there is an accessory structure.

(6) The maximum height for accessory structures shall be the height of the principal structure. Gas station canopies may exceed the height of the principal structure to the maximum height necessary to achieve vehicle clearance for the tallest vehicle served.

(7) Vehicles, trailers, PODs or similar containers shall not be used as accessory structures, except in the EID and HID zoning districts. This type of storage containers may only be used in the EID and HID districts if located in the rear yard and screened from view from adjacent properties and any public right-of-way.

(B) Business Kiosks (ATMs, ice vending, etc.)

(1) Stand-alone business kiosks and ATMs are permitted as accessory uses within the parking area for any shopping center located in the HID and MID zoning districts provided that the following conditions are met. For purposes of these conditions, a business kiosk is defined as a free standing structure of no greater than 200 square feet located within the parking lots of established shopping centers.

(2) A business kiosk may only be occupied for a retail use permitted in the HID zoning district and may only take its access from a minor or major arterial street as classified on the City of Morganton Thoroughfare Classification Map.

(3) The erection or installation of a kiosk on the property of a shopping center shall not eliminate or reduce the number of parking spaces required for the businesses within the particular shopping center.

(4) A business kiosk shall maintain the same setbacks as required for all other non-residential accessory structures located within the particular zoning district.

(5) Freestanding signs identifying the kiosk and/or its services shall not be allowed. Wall signage only shall be permitted provided the wall signs comply with Article 5 of this Zoning Ordinance.

(6) Space for stacking at least four (4) vehicles for each service window shall be provided; however, such space shall not eliminate or reduce the minimum number of parking spaces required for the shopping center nor require the stacking of vehicles in such a manner that travel within the driving lanes and internal passageways are impeded.

(7) All utility connections shall be underground.

(8) Any landscaping or landscaping islands or areas eliminated or reduced in order to accommodate a business kiosk shall be replaced elsewhere within the shopping center parking lot at a location approved by the Development and Design Services Department.

(9) The location of the kiosk and travel lanes for motor vehicles to and from the kiosk shall not obstruct or interfere with existing traffic flow patterns within the shopping center. Any alteration of existing traffic flow patterns shall require the approval of the Development and Design Services Department.

(C) Outdoor Storage (associated with a permitted use, excluding outdoor sales display)

(1) All outdoor storage shall be located in the rear yard only.

(2) No outdoor storage shall be located within 50 feet of the street right-of-way or adjacent LID, MID, CBD zoned or residentially-used property.

(3) All outdoor storage shall be screened from view of the street with a screening device as set forth in Section 4.4.7. No items shall project above the screening device within 100 feet of the property line or shall exceed at total height of 20 feet.

(D) Temporary Uses

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance and all other ordinances of the City of Morganton, shall be allowed. No portion of the temporary use may be located within the public street right-of-way. Temporary uses shall present proof of property owner approval prior to the issuance of a permit. The site shall have adequate parking for the temporary use in addition to parking for any permanent use located on the property. The following temporary structures and uses shall be permitted subject to the issuance of a Zoning Permit for a temporary use.

(1) Construction Trailers

Construction trailers used in conjunction with construction projects provided that the following requirements are met:

(a) Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential development, a valid building permit for at least one (1) of the residential units being constructed.

(b) All construction trailers shall be located at least 10 feet off any street right-of-way and not be placed in any required rear or side yard setback.

(c) In addition to construction trailers, security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers are met.

(2) Residential Sales Offices

(a) Structures, whether temporary or permanent, located in a development containing 20 or more lots and used as sales offices for the development are permitted.

(b) Any temporary structure used as a sales office shall be located on a lot which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district.

(c) At least five (5) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office.

(d) If a permanent residential structure is used as the sales office, future use of said structure shall be for residential purposes.

(e) A trailer may be used as a temporary sales office, provided that the following conditions are met:

(i) The trailer shall be provided with underpinning, from the bottom of the walls to the ground, made of masonry, vinyl, pre-painted aluminum material, or other similar material.

(ii) Landscaping shall be provided around the base of the trailer.

(iii) At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Administrator determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the development. In such case, one (1) or more extensions (each not to exceed one (1) year in duration) may be so authorized by the Administrator. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated. Immediately after the structure is removed, the lot shall be returned to a natural state. Any paved or graveled driveway and/or parking area associated with the sales office shall also be removed. All bare soil areas on the lot shall be returned to a natural vegetative state (reseeded or sodded) immediately after removal of the sales office and driveway/parking area.

(3) School Manufactured Units

Public or private schools may install temporary manufactured classroom units with the issuance of a zoning permit for two-year renewable periods.

(4) Temporary Retail Sales (including temporary produce stands, Christmas tree sales, food vendors, and similar uses)

(a) See Itinerant Merchant standards in the City of Morganton Code of Ordinance.

(b) Temporary retail sales shall be limited to the MID, HID, and SID zoning districts only, not located within a Neighborhood Conservation Overlay.

(c) Only one (1) temporary vendor shall be located on a lot of record at any time.

(d) Temporary vendors shall renew the Zoning Permit for the temporary use every 180 days for any one (1) location.

(e) This use shall not include flea markets or yard sales.

(f) Truck trailers and flat beds shall not be parked on site as part of the temporary use except for short-term delivery services.

(5) Promotional Activities for Businesses

(a) Permanent businesses established on a site may hold temporary promotional activities for the business for up to 14 days up to four (4) times per year.

(b) Promotional activities or sales taking place on a sidewalk shall leave a minimum sidewalk clearance of five (5) feet. Any promotional activities taking place on a public sidewalk shall also obtain an encroachment permit.

(6) Temporary Homeless Shelters

In all zoning districts:

(a) No temporary homeless shelter shall be established except as an accessory use to a qualified religious institution as established by the North Carolina Building Code.

(b) Temporary homeless shelters shall not accommodate more than 20 persons.

(c) All temporary homeless shelters shall be conducted in the principal building.

(d) A temporary homeless shelter must comply and remain in compliance with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the State of North Carolina, as amended or superseded, and any additional rules and regulations issued by the North Carolina Department of Insurance.

(7) Yard Sales

(a) A yard sale may be conducted by civic or religious organization, an individual occupant of a residence on-site, or in cooperation with neighbors of a residential community for the purpose of selling surplus household items for profit or for charitable purposes.

(b) Yard sales shall not be conducted at the same location or by the same organizer(s) more than two (2) days, twice in one calendar year for a total of four (4) days per calendar year, otherwise the sale is considered a commercial operation and is subject to the requirement of this Ordinance and the licensing regulations of Section 6-1151 (C) of the Code of Ordinances.

ARTICLE 4
DEVELOPMENT AND PERFORMANCE STANDARDS

Article 4 Contents

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4.1 General Development Standards

4.1.1 Suitability of Land

(A) Land which, on the basis of engineering or other expert surveys, has been determined to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be developed for that purpose, until such measures are taken to correct said conditions and to eliminate said dangers.

(B) Areas that have been used for disposal of solid waste shall not be developed unless tests by the Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

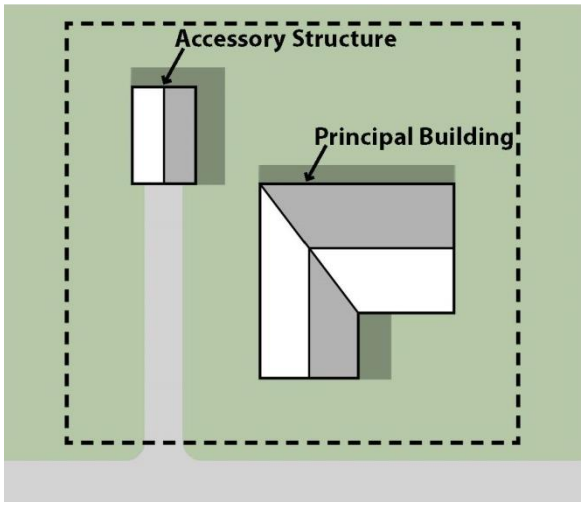
(C) All development proposals shall be consistent with the need to minimize flood damage in accordance with regulations of the Flood Damage Prevention Ordinance.

4.1.2 Lot Use

(A) No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.

(B) Only one (1) principal building and its customary accessory structure(s) may hereafter be erected on any single-family or two-family residential lot.

FIGURE 4.1: PRINCIPAL AND ACCESSORY STRUCTURES



4.1.3 Lot of Record

(A) No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall be at least the minimum requirements established by this Ordinance.

(B) Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a residential building site, where permitted, provided, however, that the other requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

(C) Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as one (1) or more lots which meet the minimum requirements of this Ordinance for the district in which such lots are located and shall be combined by deed or plat prior to the development of any such lot.

4.1.4 Lot Access

(A) No building, structure or use of land, for other than agricultural purposes, shall be established on a lot nor shall any lot be created that does not abut upon a public street or private street built to City or State standards to which it has legal access.

(B) The minimum width of legal access upon a street for any property of two (2) acres or greater shall be 40 feet.

(C) The minimum width of legal access upon a street for any property of less than two (2) acres shall be 25 feet.

(D) This access requirement shall not apply to lawfully existing lots of record with a minimum of 25 feet of frontage on a dedicated access easement that has a recorded maintenance agreement. One additional lot may be subdivided from an existing lot with a minimum of 25 feet on an existing dedicated access easement.

4.1.5 Flexibility in Administration

(A) In the event that the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Article serve no meaningful purpose or would make it physically impossible to install and maintain the required improvements, the Development and Design Services Department may alter the requirements of this Section up to 10 percent less than the minimum

requirement or 10 percent more than the maximum requirement, provided the spirit and intent of the Section are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Development and Design Services Department showing existing site features or alternative improvements that would achieve the intent of the requirements of this Article. The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the requirements contained in this Article. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the requirements.

(B) Any deviation from the requirements of this Article of greater than 10 percent shall require review and approval by the City Council as an Alternative Design subject to the procedures set forth in Section 2.2.7.

4.2 Density and Dimensional Standards

4.2.1 General Provisions

(A) The lot sizes required for the various districts in this Ordinance were drawn upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one (1) or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.

(B) In all zoning districts, double frontage or through lots shall provide the minimum yard requirements for front yards along both street fronts.

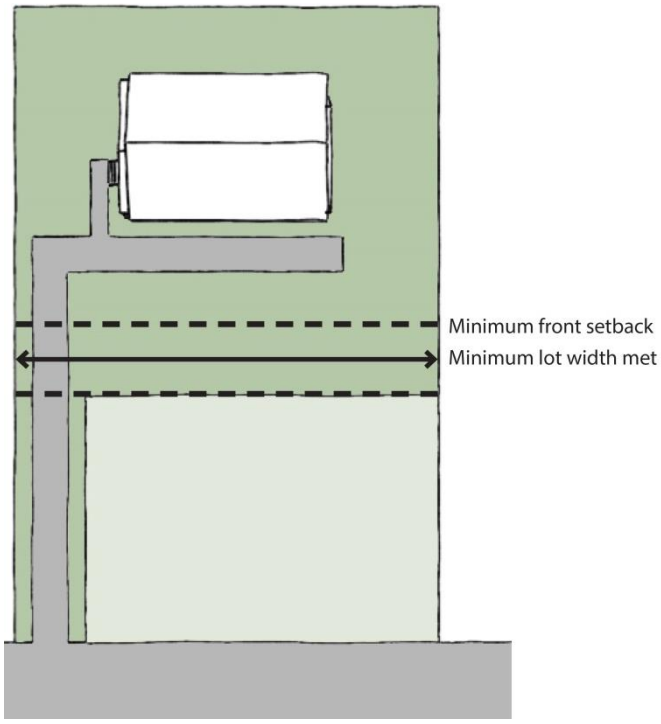
(C) All structure heights shall be measured as shown in Figure 4.4.

(D) All setbacks shall be measured from the property line to the nearest point of the structure as shown in Figure 4.5.

(E) Where a property abuts a street right-of-way or access easement, the setback shall be measured from the right-of-way of easement line.

(F) The front setbacks of flag lots shall be established where the lot width is met.

FIGURE 4.2: FLAG LOT FRONT SETBACK



(G) On a corner lot in any district other than the Central Business District (CBD), no planting, structure, fence, wall, or other obstruction to vision that is more than two (2) feet tall as

measured at street level shall be placed in the sight triangle. The sight triangle is the area formed by a diagonal line connecting two (2) points located on intersecting property lines (or a property line and the curb or a driveway). The following are the distances used to establish a sight triangle as measured from the edge-of-pavement of intersecting streets:

TABLE 4.1: SIGHT DISTANCE

Right-of-Way Width (feet) (A)	Distance (feet) (B)
Driveway	10
Less than 50	20
50	25
60	30
70	35
80	40
90	45
100 or greater	50

FIGURE 4.3: SIGHT TRIANGLE

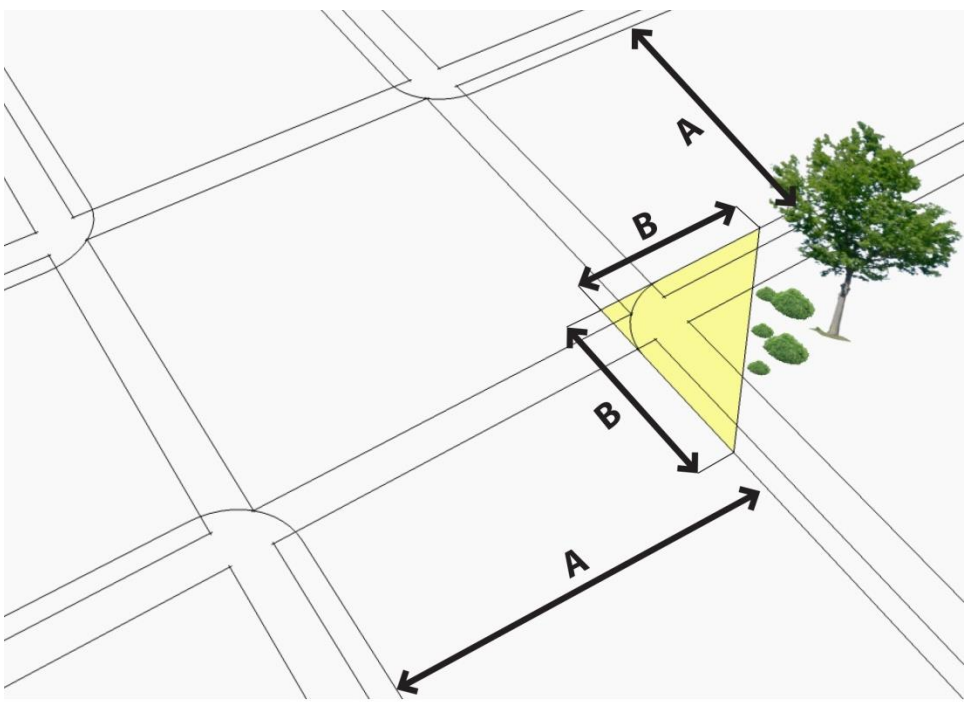


FIGURE 4.4: HEIGHT MEASUREMENTS

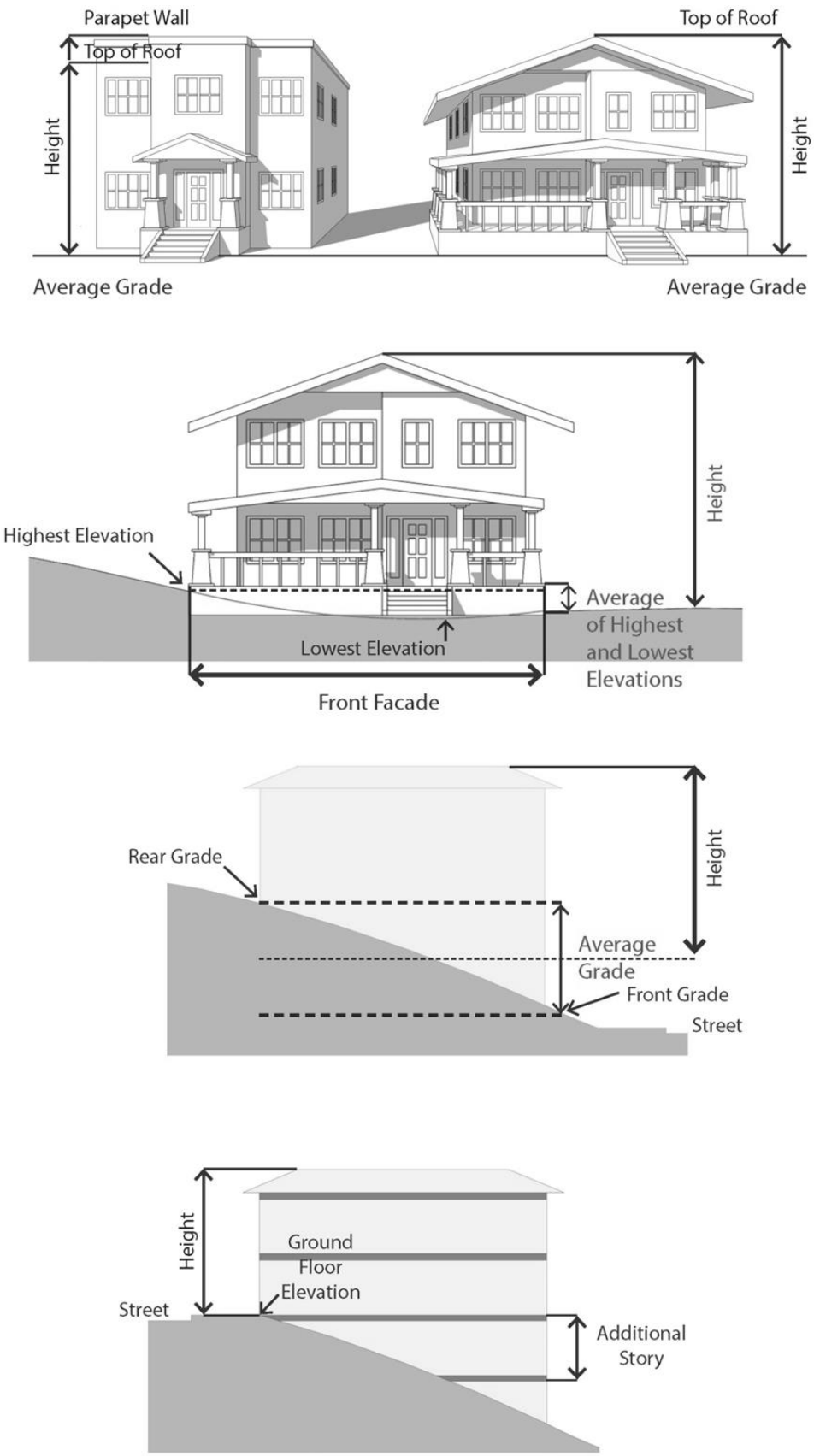
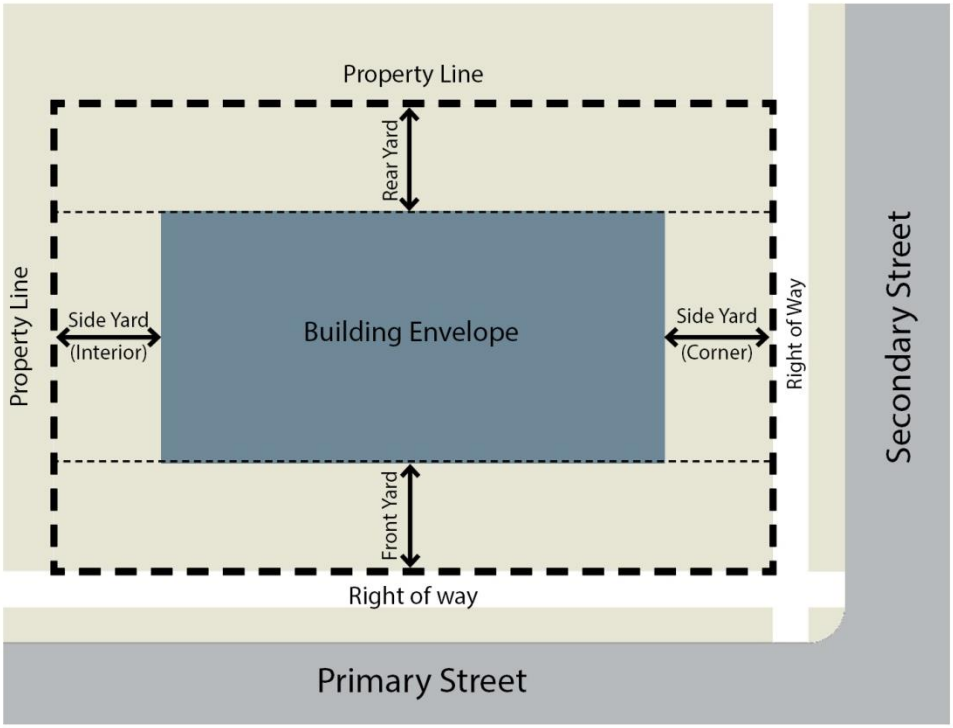


FIGURE 4.5: YARD DEFINITIONS AND SETBACK MEASUREMENTS


Property Line
Rear Yard
Property Line
Side Yard
(Interior)
Building Envelope
Side Yard
(Corner)
Right of Way
Secondary Street
Front Yard
Right of way
Primary Street

4.2.2 Base Residential Density and Dimensional Standards

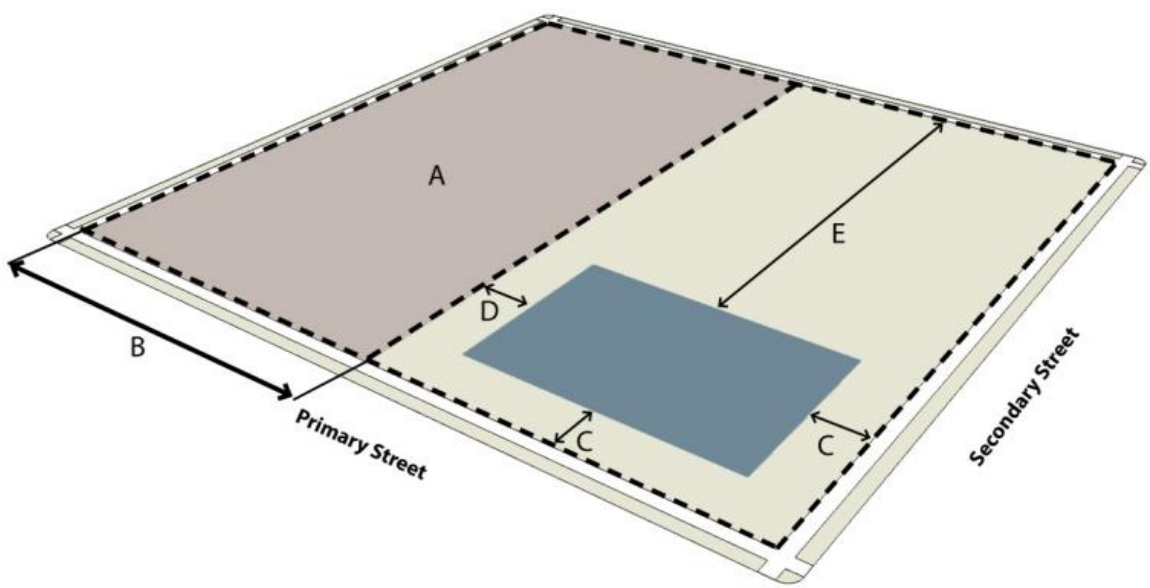
The following dimensions are the base density and dimensional standards for each zoning district. Districts may be subject to density bonuses and reduced setbacks as noted in Section 4.2.3, subject to the performance standards of this Article. Additional infill dimensional standards for properties in the Neighborhood Conservation Overlay are in Section 4.2.6.

TABLE 4.2: BASE RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS

District	A1 Base Max. Residential Density	A2 Residential Min. Lot Size (Square feet)[1]	B Min. Lot Width (feet)	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
LID	2 DUA	20,000	80	30	10	25	35
MID	2 DUA	20,000	70	20	10	20	35
HID	4 DUA	6,000	60	20	10	20	35
CBD	4 DUA	N/A	N/A	0 min. 5 max.	N/A	N/A	35
EID	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SID	N/A	N/A	50	20	10	20	65

N/A=Not applicable
DUA=Dwelling Units per Acre
[1] The minimum lot size for infill development of less than two (2) acres shall be equal to the average of all lots within 200 feet of the property.

FIGURE 4.6: BASE RESIDENTIAL DIMENSIONAL STANDARDS



4.2.3 Maximum Residential Performance Density and Dimensional Standards

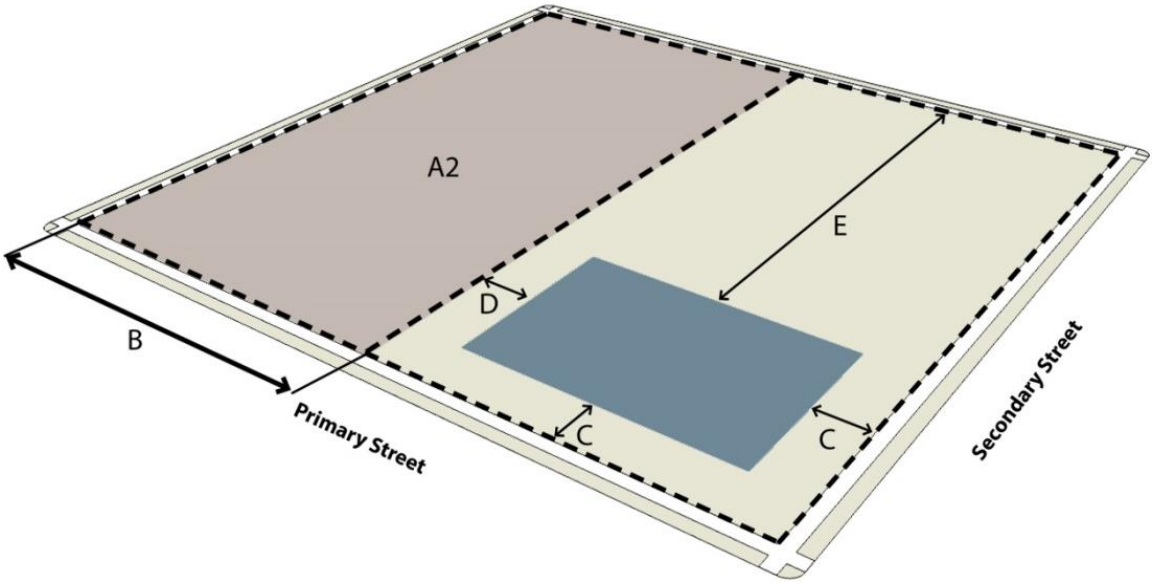
Subject to the performance point system of Section 4.3, the following dimensions are the maximum residential performance density and dimensional standards for each zoning district.

TABLE 4.3: PERFORMANCE RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS

District	A Performance Max. Residential Density[1]	B Residential Min. Lot Width (feet)[2]	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
LID	6 DUA	60-detached 25-attached	25	5	20	35
MID	10 DUA	50-detached 25-attached	20	5-detached 0-attached	15	50
HID	20 DUA	40-detached 25-attached	20	5-detached 0-attached	5	65
CBD	20 DUA	N/A	0 min. 5 max.	N/A	N/A	65
EID	N/A	N/A	N/A	N/A	N/A	N/A
SID	N/A	40-detached 25-attached	20	5-detached 0-attached	5	65

N/A=Not applicable
DUA=Dwelling Units per Acre
[1] There is no minimum lot size for residential developments utilizing the performance standards of Section 4.3. All districts shall be density-based.
[2] Detached lot widths apply to detached dwelling units, and attached lot widths apply to attached dwelling units. Any lots of less than 50 feet in width shall be alley-loaded and shall not have driveways accessing the fronting street.

FIGURE 4.7: PERFORMANCE RESIDENTIAL DIMENSIONAL STANDARDS



4.2.4 Non-residential Dimensional Standards

The following Non-residential dimensional standards apply for each zoning district. Districts may be subject to density bonuses and reduced setbacks as noted in Section 4.2.3, subject to the performance standards of this Article.

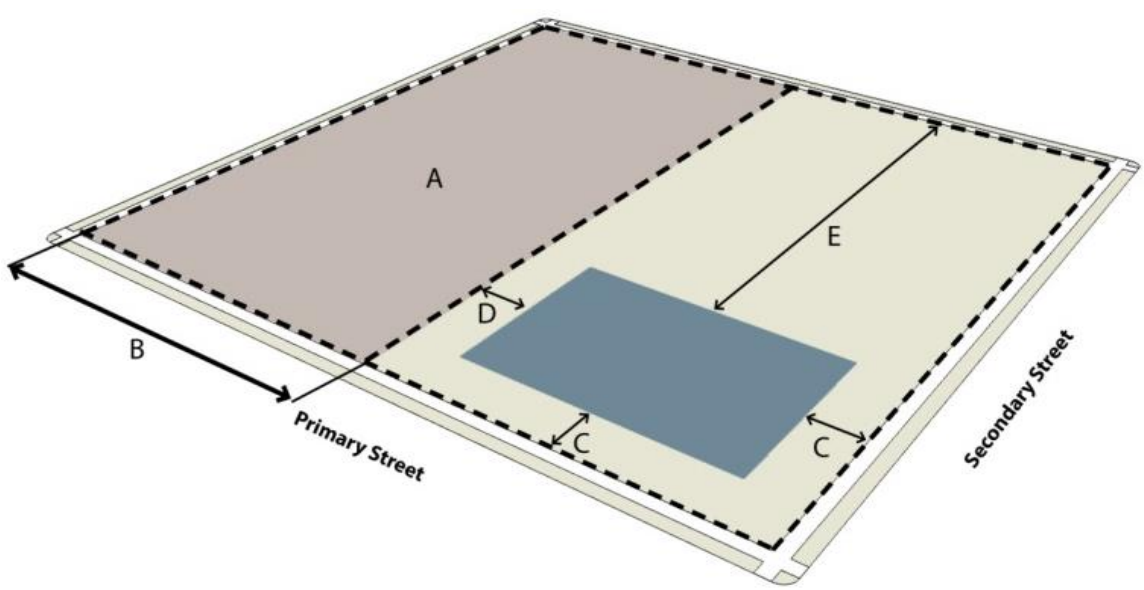
TABLE 4.4: NON-RESIDENTIAL DIMENSIONAL STANDARDS

District	A Min. Lot Size (Square feet)	B Min. Lot Width (feet)	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
LID	40,000	100	30	10	25	35
MID	20,000	80	20	10	20	35
HID	10,000	60	20	10	20	*35
CBD	N/A	N/A	N/A	N/A	N/A	65
EID	20,000	50	50	50	50	65
SID	N/A	50	20	10	20	65

N/A=Not applicable

*= See Exception Section 4.2.5 (F)

FIGURE 4.8: NON-RESIDENTIAL DIMENSIONAL STANDARDS



4.2.5 Exceptions to Dimensional Standards

(A) The front setback for each district shall apply to the side yard of corner lots abutting a public street and to double frontage lots.

(B) The height limitations of this Section shall not apply to public buildings, churches, temples, schools, hospitals, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power and communication transmission towers, flag poles and similar structures provided such structures meet the required North Carolina Building Code. Height limitations shall apply to cellular telephone towers as regulated herein.

(C) Canopies, awnings, open stairways, uncovered porches, uncovered decks, uncovered patios, bay windows, chimneys, and heating units may encroach into the setback up to three (3) feet. Any structure less than 12 inches above grade shall not be subject to setback requirements.

(D) The dimensional provisions of this section do not apply to residential accessory structures, which are regulated in Section 3.4.2 (B).

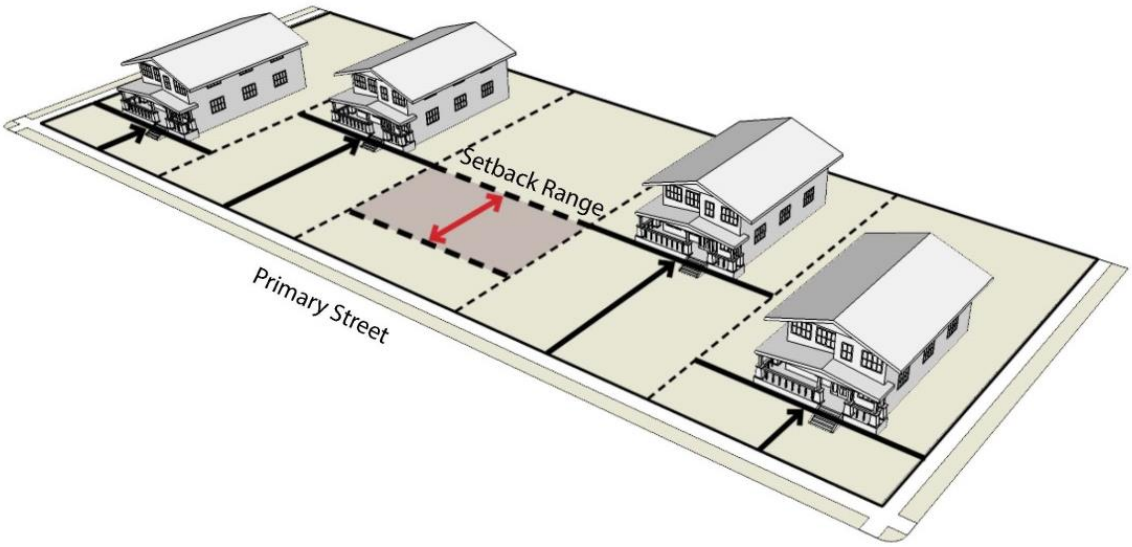
(E) Utility uses as defined by this Ordinance are not subject to the minimum lot sizes set forth for each zoning district.

(F) Non-residential buildings within HID districts may be constructed to a maximum height of 75 feet. Vertical Articulation is to be utilized as per Section 4.8.6.4

4.2.6 Neighborhood Conservation Overlay Dimensional Standards

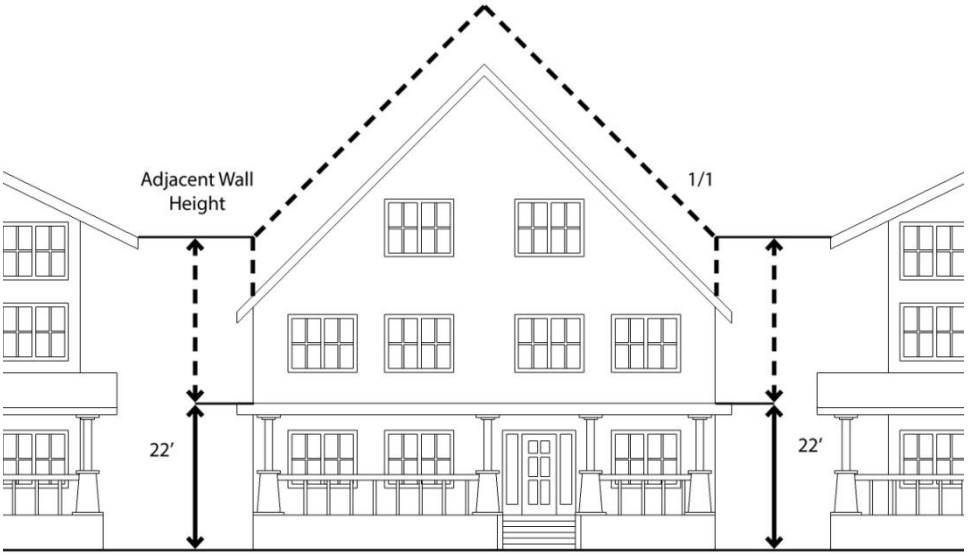
(A) For infill lots in the Neighborhood Conservation Overlay where lots located on either side of a center lot are improved with buildings, and the structures are no more than 200 feet apart, the required setback of the center lot shall be the average of the setback of the two (2) closest lots in either direction along the block.

FIGURE 4.9: INFILL AVERAGE FRONT SETBACK



(B) For infill lots in the NC-O, the maximum wall height adjacent to the side property line is 22 feet or the average height of the two abutting neighboring wall planes, whichever is greater. The wall height may be increased one (1) foot for each foot of horizontal distance the wall is moved from the side setback line, not to exceed the maximum height allowed within the district.

FIGURE 4.10: NC-O INFILL AVERAGE WALL HEIGHT



4.3 Performance Standards

4.3.1 Performance Standards for Residential Development

Density may be increased as indicated below up to the maximum density for the district as shown in the Maximum Residential Performance Density and Dimensional Standards Table in Section 4.2.3. Points can be accrued as indicated in the following categories of this Chapter. Numbers shall be rounded up when the calculation results in greater than 0.5 of a unit.

TABLE 4.5: PERFORMANCE POINTS DENSITY BONUS SCALE

Performance Points	Allowable Density Increase (dwelling units per acre up to maximum for district)
9-11	2
12-15	4
16-19	8
20 and up	16

For example, a 10 acre residential development in the MID district has a base density of two (2) dwelling units an acre, according to Table 4.3. This would yield a maximum of 20 dwelling units. If the developer provides the following performance standards as shown in Table 4.6 on the next page, then the development can achieve a four (4) DUA density bonus, thereby increasing the maximum development density to six (6) dwelling units per acre. The new maximum yield would be 60 dwelling units.

Street Yard		1 point
Residential Yards		1 point
20% open space		1 point
Connectivity Ratio		1 point
Sidewalks Both Sides of Street		2 points
Decorative Street Lighting		1 point
Wall Materials		1 point
Garages		1 point
Roofs		1 point
Façade Articulation		1 point
Porches	+	1 point
		12 points

12 points=4 DUA Density Bonus
2 DUA (base) + 4 DUA= 6 DUA
10 acres x 6 DUA=60 dwelling units

TABLE 4.6: PERFORMANCE STANDARD OPTIONS

Performance Criteria	Points if Performance Standard Met
Landscaping-Section 4.4 (At least 2 points must be for landscaping)	
Buffer Yard (or in CBD)	1 (or 2 with fence) 2 for base standard in CBD 3 for performance standard in CBD
Street Yard (or in CBD)	1
Parking Lot Yard	1
Building Yard	1
Residential Yard	1
Retention of All Existing Trees over 8"DBH	1
Open Space-Section 4.5 (At least 1 point must be for Open Space (choose 1 option))	
Infill development of 2 acres or less	1
20%	1
30%	2
40% (or in CBD)	3
Fulfills park or greenway on adopted plan	1 (bonus point)
Infrastructure-Section 4.7 (At least 2 points must be for Infrastructure)	
Redevelopment of site with existing buildings and infrastructure	2 3 in CBD
Connectivity Ratio (or in CBD)	1
Sidewalks (one side of street)	1
Sidewalks (both sides of street)	2
Decorative Street Lighting	1
Building Design-Section 4.8 (At least 4 points must be for building design)	
Redevelopment of existing building	2 3 in CBD
Wall Materials	1
Roofs	1
Garages	1
Façade Articulation	1
Porches and/or Balconies	1
Windows	1
Foundation (or in CBD)	1
Maximum possible points	**26**

4.3.2 Performance Standards for Non-Residential Development

Performance standards are required for developments within the Corridor and River District Overlays and for non-residential development within the LID and MID zoning districts as indicated in Section 3.4. Performance standards will be optional and are encouraged for all other developments.

4.4 Landscaping and Screening Standards

4.4.1 Purpose and Applicability

(A) The purpose of this Section is to regulate the installation, protection, and long-term management of trees and shrubs and to minimize potential nuisances, such as visual impacts, noise, dust, odor, litter, heat, and glare of lights, from adjacent properties and the community. The appropriate use of existing and supplemental landscaping enhances the appearance of the built environment, blends new development with the natural landscape, and reduces the environmental impact of development. Existing vegetation should be protected and retained where possible to ensure a natural established landscape.

(B) The requirement for installation of landscaping shall be initiated by any one (1) or more of the following activities on a property:

(1) New construction or the initial use of the property
(2) A substantial change of use or change in zoning classification
(3) Any building or parking expansion of greater than 20 percent

(C) The requirements of this section do not apply to single-family or two-family residential development on existing lots of record that are not utilizing performance standards for density bonuses.

(D) The provisions of this Section are designed to specifically address the application of landscape resources to varying styles of development and the impact of such applications on the appearance, health and financial well-being of the community. The provisions are broken into six (6) landscaping and screening categories:

(1) Buffer Yards
(2) Street Yards
(3) Parking Lot Yards
(4) Building Yards
(5) Screening Yards
(6) Residential Lot Yards

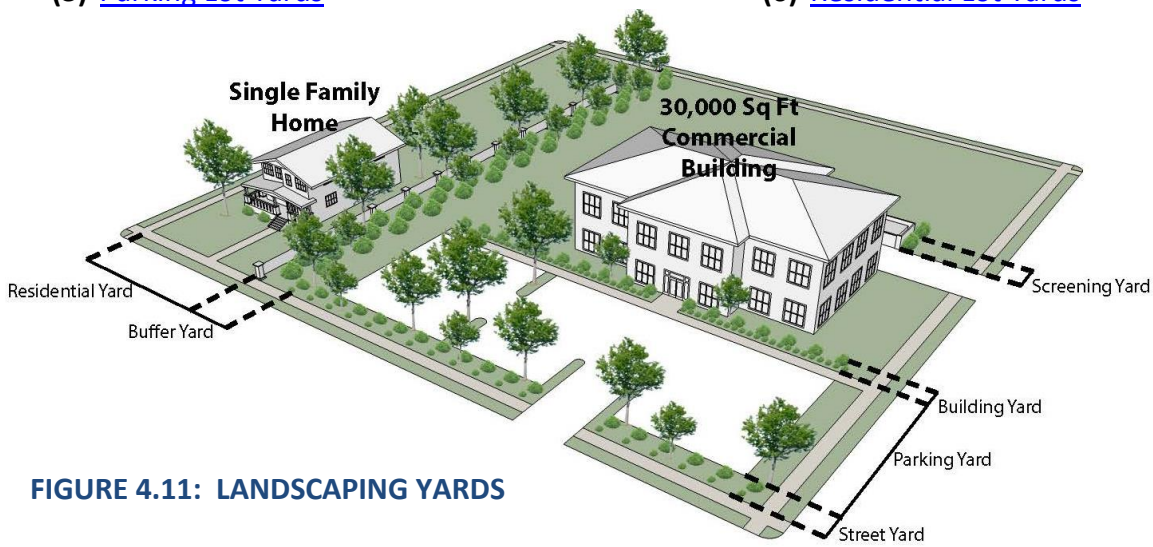


FIGURE 4.11: LANDSCAPING YARDS

4.4.2 General Standards for All Landscaping

(A) The preservation of existing vegetation and natural features is encouraged. Significant trees, forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development.

(B) In cases where an existing, landscaped or vegetated area is located on the same property as the proposed development, further plantings and or improvements shall not be required so long as existing vegetation is of sufficient width and contains adequate materials to meet the requirements of this Ordinance. If the landscaped or vegetated area is deficient, the developer shall make needed improvements and/or additions to satisfy the landscaping requirements and intent of this Ordinance.

(C) No structure other than a wall, fence, sidewalk, mailbox, sign, light fixture, or driveway shall be permitted within a required landscaping area. No off-street parking may take place in any required landscaping area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.

(D) Within 30 feet of overhead utility lines, two (2) small trees shall be used in lieu of each large tree required. Such small trees shall not reach a mature height of greater than 15 feet.

(E) Vegetation shall be selected from the approved plant list in Section 4.4.11. At least 75 percent of the required shrubs shall be evergreen species locally adapted to the area. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental planting may be required in addition to native materials.

(F) All diagrams in this Section are for illustrative purposes. No landscaping feature shall impede sight lines of traffic within the sight triangle as defined in Section 4.2.1 (G).

4.4.3 Buffer Yards

(A) Buffer yards area intended to separate higher intensity and lower intensity. Buffers shall be measured from the subject property line into the site to be developed. All required buffer yards shall abut the subject property line. Required buffer yard width shall not decrease the required building setback for each zoning district as set forth in Section 4.2.

(B) Buffer yards shall function as opaque visual screens with a minimum height of six (6) feet.

(C) Generally, the responsibility for screening is that of the more intense land use. However, new developments with a less intense use being constructed next to an existing more intense use shall provide the required landscaping on the new development's property.

(D) Fences located within a buffer yard shall be located on the side closest to the neighboring property line while allowing adequate room to maintain both sides of the fence.

(E) In addition to the requirements of this Section, street yard landscaping shall meet the general standards set forth in Section 4.4.2.

(F) There are three types of buffer yards. The requirements and depictions of these buffer yards are shown on the following pages.

(1) Type 1: Multi-family residential development adjacent to single-family residential development

(2) Type 2: Non-residential development adjacent to any type of residential development (not including development within an Exclusive Industrial District)

(3) Type 3: All development in an Exclusive Industrial District (EID) adjacent to all other zoning districts

4.4.3.1 Type 1 Buffer Yards: Multi-family Residential Development Adjacent to Single-family Residential

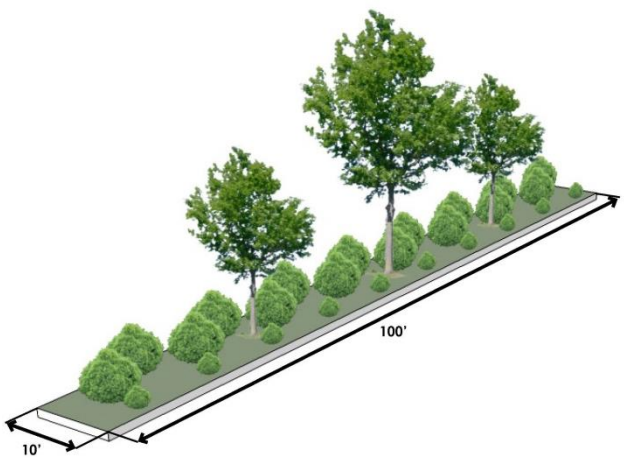
TABLE 4.7: TYPE 1 BUFFER YARD

Criteria	Base Standard[2]	Performance Standard[2] (choose a minimum of 3 to obtain 1 performance point*)
Width	10 feet	15 feet
Large Trees	1 per 100 hundred linear feet	2 per 100 hundred linear feet
Small Trees	2 per 100 hundred linear feet	3 per 100 hundred linear feet
Large Shrubs	15 per 100 hundred linear feet	20 per 100 hundred linear feet
Medium or Small Shrubs	10 per 100 hundred linear feet	15 per 100 hundred linear feet
Fence, Wall or Berm[1]	Optional (allows reduction in shrubs and buffer width by 50%)	Fence, wall or berm (*counts for 1 full performance point)
Mulch	Pine needles, mulch, or landscaping rock	N/A

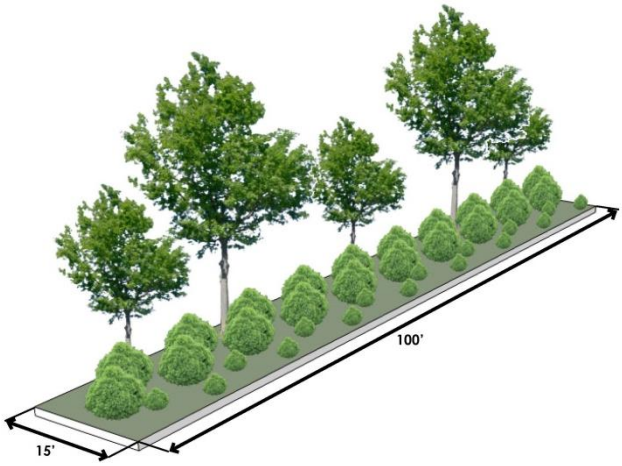
[1]Any fence, wall, or berm used to meet the requirements of this section shall meet the requirements of Section 4.4.9 or 4.4.10 and be a minimum of 6 feet and 90 percent opaque. Use of a fence, wall, or berm meeting these minimum requirements shall result in one performance point.

[2]Multi-family residential developments in the CBD district shall automatically receive 1 performance point for buffer yards. Meeting the Base Standard will result in 2 performance points. Meeting the Performance Standard will result in 3 performance points.

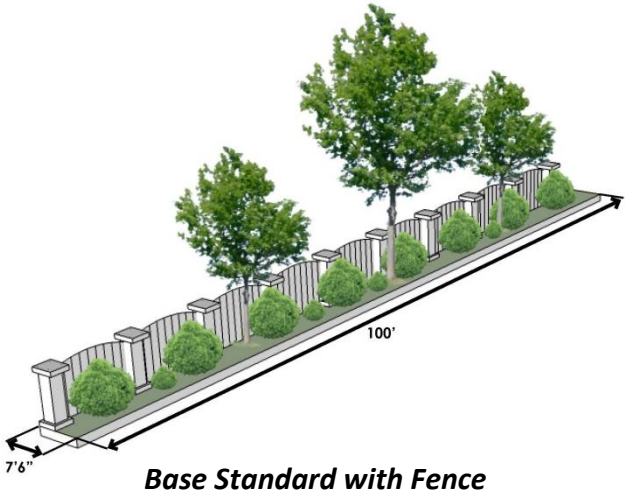
FIGURE 4.12: TYPE 1 BUFFER YARD EXAMPLES



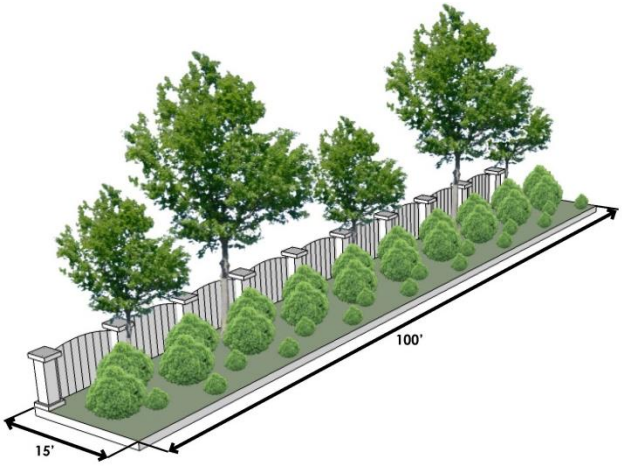
Base Standard



Performance Standard



Base Standard with Fence



Performance Standard with Fence

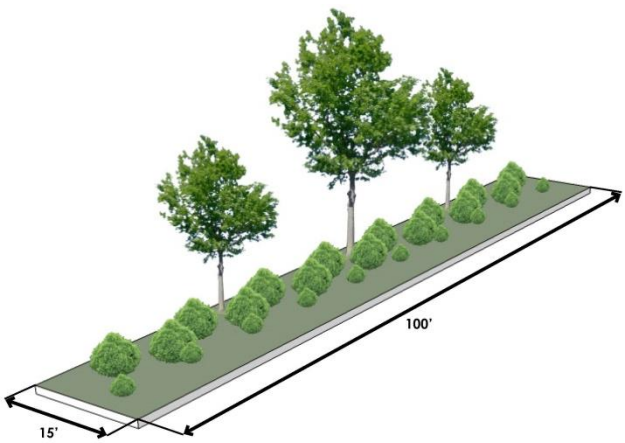
4.4.3.2 Type 2 Buffer Yards: Non-residential Development (Excluding EID) Adjacent to Any Residential

TABLE 4.8: TYPE 2 BUFFER YARDS

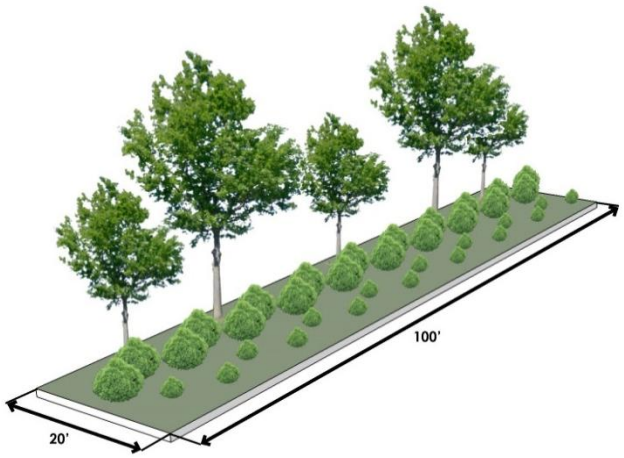
Criteria	Base Standard	Performance Standard (required in Corridor and River District Overlays)
Width	15 feet	20 feet
Large Trees	1 per 100 hundred linear feet	2 per 100 hundred linear feet
Small Trees	2 per 100 hundred linear feet	3 per 100 hundred linear feet
Large Shrubs	15 per 100 hundred linear feet	20 per 100 hundred linear feet
Medium or Small Shrubs	10 per 100 hundred linear feet	15 per 100 hundred linear feet
Fence, Wall or Berm[1]	Optional (allows reduction in shrubs and buffer width by 50%)	Optional (allows reduction in shrubs and buffer width by 25%)
Mulch	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock

[1]Any fence, wall, or berm used to meet the requirements of this section shall meet the requirements of Section 4.4.9 or 4.4.10 and be a minimum of 6 feet and 90 percent opaque. Use of a fence, wall, or berm meeting these minimum requirements shall result in one performance point.

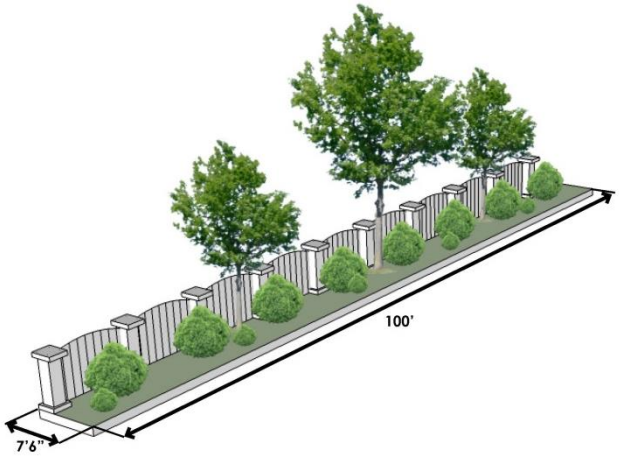
FIGURE 4.13: TYPE 2 BUFFER YARD EXAMPLES



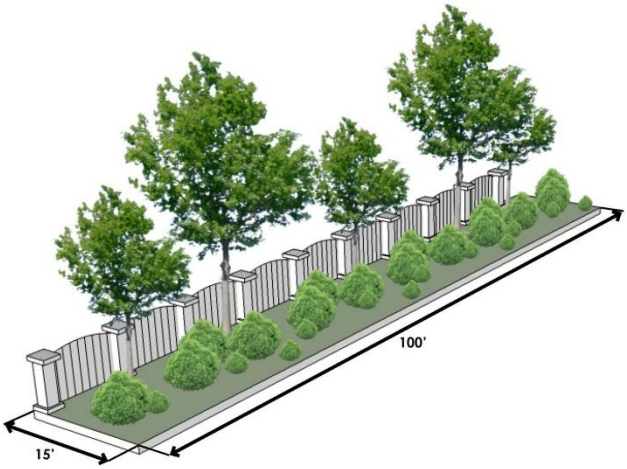
Base Standard



Performance Standard



Base Standard with Fence



Performance Standard with Fence

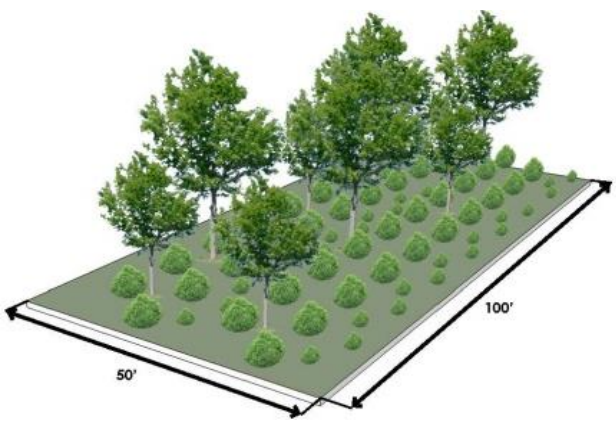
4.4.3.3 Type 3 Buffer Yards: All Development within an Exclusive Industrial District (EID) Adjacent to All Other Zoning Districts

TABLE 4.9: TYPE 3 BUFFER YARDS

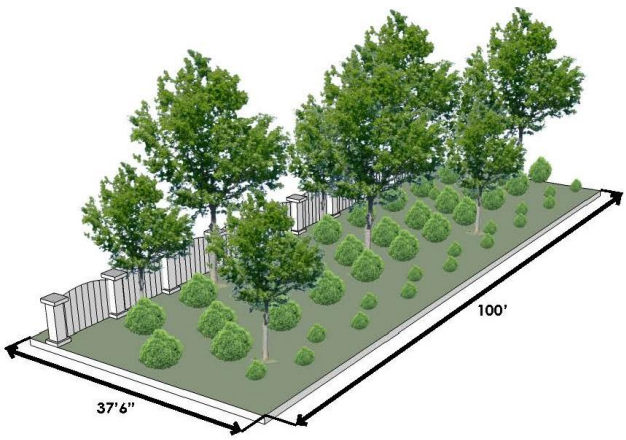
Criteria	Standard
Width	50 feet
Large Trees	4 per 100 hundred linear feet
Small Trees	5 per 100 hundred linear feet
Large Shrubs	30 per 100 hundred linear feet
Medium or Small Shrubs	35 per 100 hundred linear feet
Fence, Wall or Berm[1]	Optional (allows reduction in shrubs and buffer width by 25%)
Mulch	Pine needles, mulch, or landscaping rock

[1]Any fence, wall, or berm used to meet the requirements of this section shall meet the requirements of Section 4.4.9 or 4.4.10 and be a minimum of 6 feet and 90 percent opaque. Use of a fence, wall, or berm meeting these minimum requirements shall result in one performance point.

FIGURE 4.14: TYPE 3 BUFFER YARD EXAMPLES



Minimum Standard



Minimum Standard with Fence

4.4.4 Street Yards

(A) Street yards are intended to provide transition between vehicular travelways and the built environment and create a continuous vegetated aesthetic along the street rights-of-way. Street yards shall be measured from the right-of-way line (front property line) into the subject property.

(B) Street yard requirements shall not apply to development within the CBD zoning district.

(C) In addition to the requirements of this Section, street yard landscaping shall meet the general standards set forth in Section 4.4.2.

(D) Developments along streets with existing street trees may use such trees to satisfy the tree requirements of the street yard as long as the minimum number of trees are present. Required street yard shrubs shall be installed around existing street trees in a manner that does not damage the existing trees.

4.4.4.1 Residential Development Street Yard

The street yard shall be installed along entire street frontage of the existing street from which the residential development takes access.

TABLE 4.10: RESIDENTIAL STREET YARD PERFORMANCE STANDARD

Criteria	Performance Standard
Width	10 feet
Mulch	Pine needles, mulch, or landscaping rock
Options-(choose a minimum of 3 to obtain 1 performance point)	
Fence, Wall, or Berm	Fence, wall, or berm
Large Trees	NA
Small Trees	4 per 100 hundred linear feet
Large Shrubs	10 per 100 hundred linear feet
Medium or Small Shrubs	20 per 100 hundred linear feet

[1]All street yard fences or walls used to meet the requirements of this section shall be a minimum of 2 feet and maximum of 4 feet. Fences shall be split rail and may include brick or stone columns. Walls shall be either brick or stone. See Section 4.4.9 for fence and wall design. Berms shall meet the requirements of Section 4.4.10.

FIGURE 4.15: RESIDENTIAL STREET YARD EXAMPLE

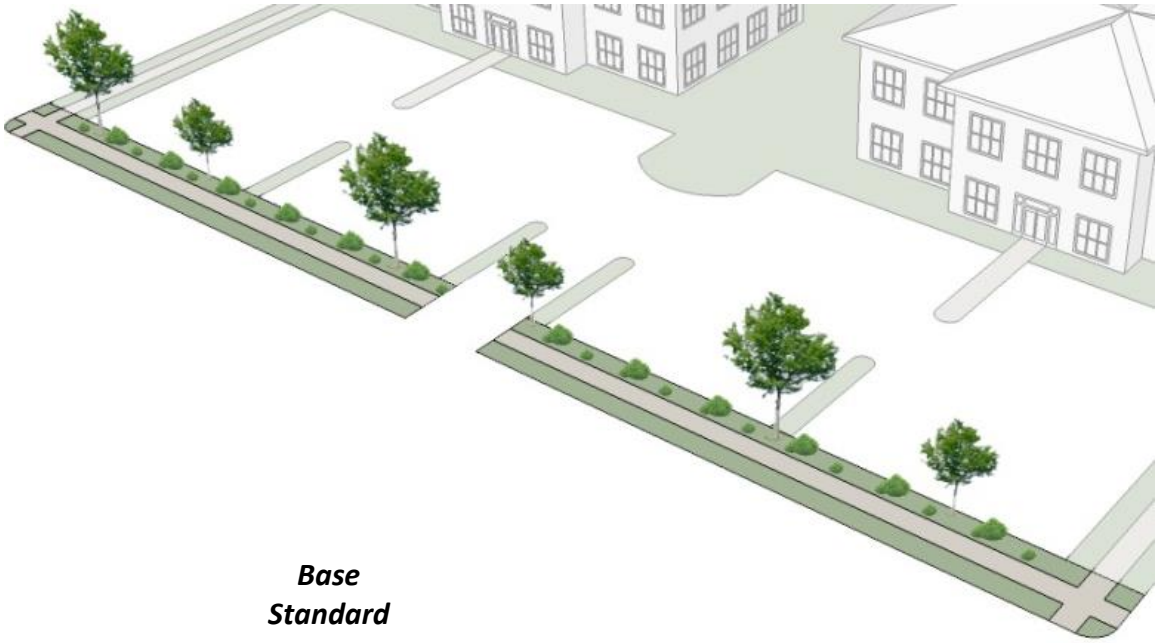
4.4.4.2 Non-residential Development Street Yard

TABLE 4.11: NON-RESIDENTIAL DEVELOPMENT STREET YARD STANDARDS

Criteria	Base Standard	C-O Performance Standard	RD-O Performance Standard
Width	5 feet	10 feet	10 feet
Fence or Wall[1]	Optional (allows reduction in shrubs by 50%)	Optional (allows reduction in shrubs by 25%)	50% of the street frontage[2]
Large Trees	NA	NA	NA
Small Trees	2 per 100 hundred linear feet	3 per 100 hundred linear feet	5 per 100 hundred linear feet
Large Shrubs	5 per 100 hundred linear feet	10 per 100 hundred linear feet	10 per 100 hundred linear feet
Medium or Small Shrubs	10 per 100 hundred linear feet	15 per 100 hundred linear feet	15 per 100 hundred linear feet
Mulch	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock
Boulders	NA	NA	1 boulder per 50 linear feet[2]

[1]All street yard fences used to meet the requirements of this section shall be a minimum of 2 feet and maximum of 4 feet. Fences shall be split rail and may include brick or stone columns. Walls shall be either brick or stone.
[2]Either a fence or landscaping boulders shall be installed in the street yards of the River District Overlay. Boulders shall be a minimum of 3 feet in 2 dimensions (see RD-O diagram under Figure 4.16).

FIGURE 4.16: NON-RESIDENTIAL STREET YARD EXAMPLES



Base Standard

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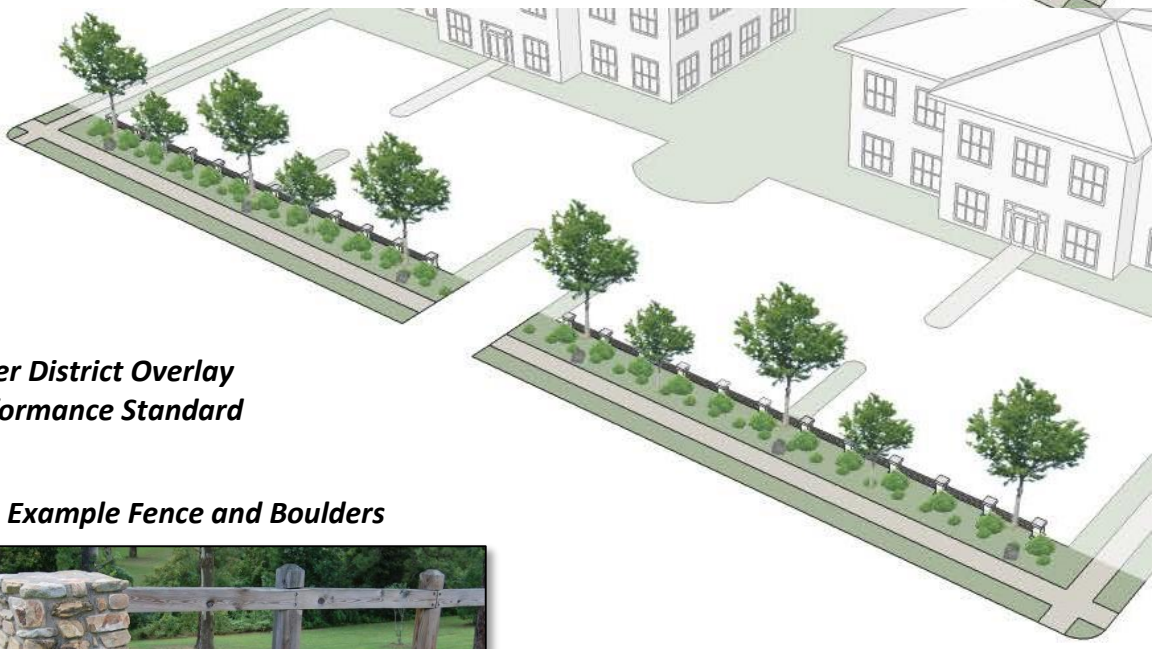
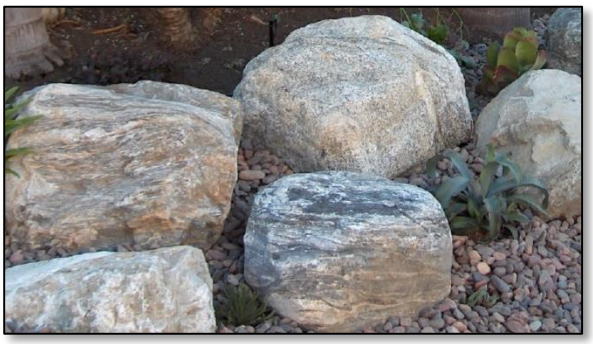
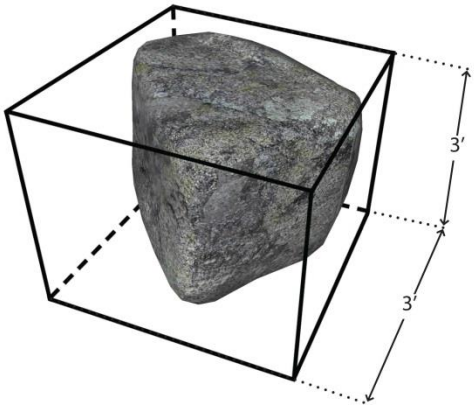
Corridor Overlay Performance Standard



River District Overlay Performance Standard

Example Fence and Boulders





4.4.5 Parking Lot Yards

(A) Parking lot landscaping is required within all non-residential parking lots of greater than 10 spaces except motor vehicle or boat sales display areas. Instead, perimeter landscaping around motor vehicle or boat sales display areas shall be utilized at the same rate as required in Subsections 4.4.5.2 or 4.4.5.3, as applicable.

(B) The parking lot yard requirement may be met by the street yard requirement, buffer yard requirement, or building yard requirement for parking that is immediately adjacent to a street yard, buffer yard, or building yard.

(C) Trees shall be planted in a manner that provides shade for parking area at maturity within 10 feet of the pavement edge. Each planting area shall be a minimum of 200 square feet, with a minimum dimension of seven (7) feet. Planting areas shall be protected with concrete curbing.

(D) Required shrubs may be located around the parking lot perimeter (within 10 feet of the pavement edge) or within planting islands.

(E) In addition to the requirements of this Section, parking lot yard landscaping shall meet the general standards set forth in Section 4.4.2.

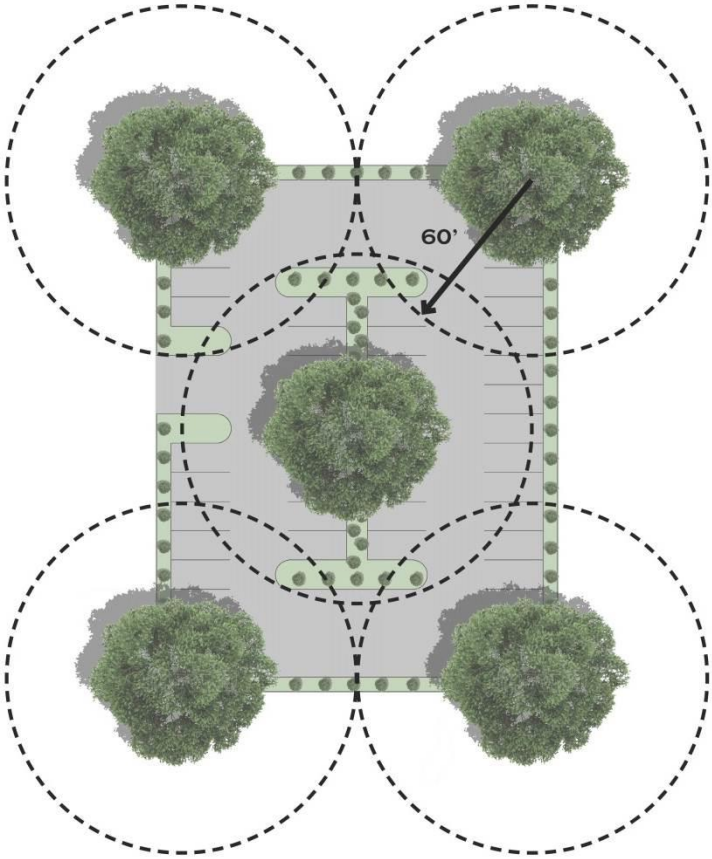
4.4.5.1 Multi-family Residential Parking Lot Yard Performance Standard

Meeting this standard will result in one (1) performance point.

TABLE 4.12: MULTI-FAMILY RESIDENTIAL PARKING LOT YARD PERFORMANCE STANDARD

Criteria	Performance Standard
Landscaping Area	200 square feet
Large Trees	1 within 60 feet of every parking space
Small Trees	2 small trees replace 1 large tree if overhead utility lines conflict
Large Shrubs	Optional
Medium or Small Shrubs	1 per parking space (may be located around parking lot perimeter within 10 feet of paving)
Mulch	Pine needles, mulch, or landscaping rock

FIGURE 4.17: MULTI-FAMILY RESIDENTIAL PARKING LOT YARD DIAGRAM



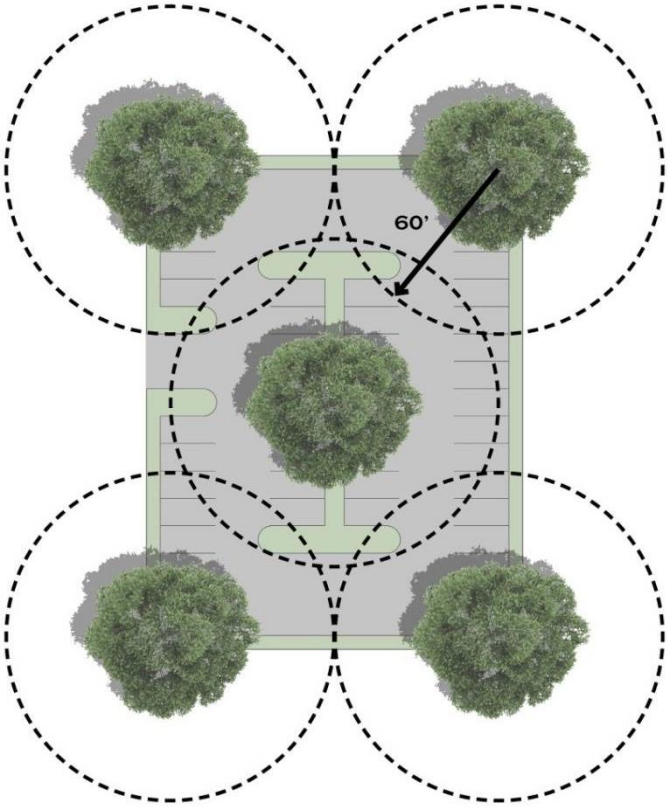
4.4.5.2 Non-Residential Parking Lot Yard Standards

TABLE 4.13: NON-RESIDENTIAL PARKING LOT YARD STANDARDS

Criteria	Base Standard	C-O Performance Standard	RD-O Performance Standard
Landscaping Area	200 square feet	200 square feet	200 square feet
Large Trees	1 per 10 parking spaces (may be located around the perimeter within 10 feet of paving)	1 within 60 feet of every parking space	1 within 60 feet of every parking space
Small Trees	2 small trees replace 1 large tree if overhead utility lines conflict	2 small trees replace 1 large tree if overhead utility lines conflict	2 small trees replace 1 large tree if overhead utility lines conflict
Large Shrubs	Optional	Optional	Optional
Medium or Small Shrubs	Optional	1 per parking space	1 per parking space
Mulch	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock
Boulders[1]	Optional	Optional	1 per 10 parking spaces

[1]Landscaping boulders shall be a minimum of 3 feet in 2 dimensions. Each boulder allows the reduction in required shrubs at a rate of 3 shrubs per boulder. A minimum of 50 percent of required shrubs shall be retained.

FIGURE 4.18: NON-RESIDENTIAL PARKING LOT YARD EXAMPLES



Base Standard

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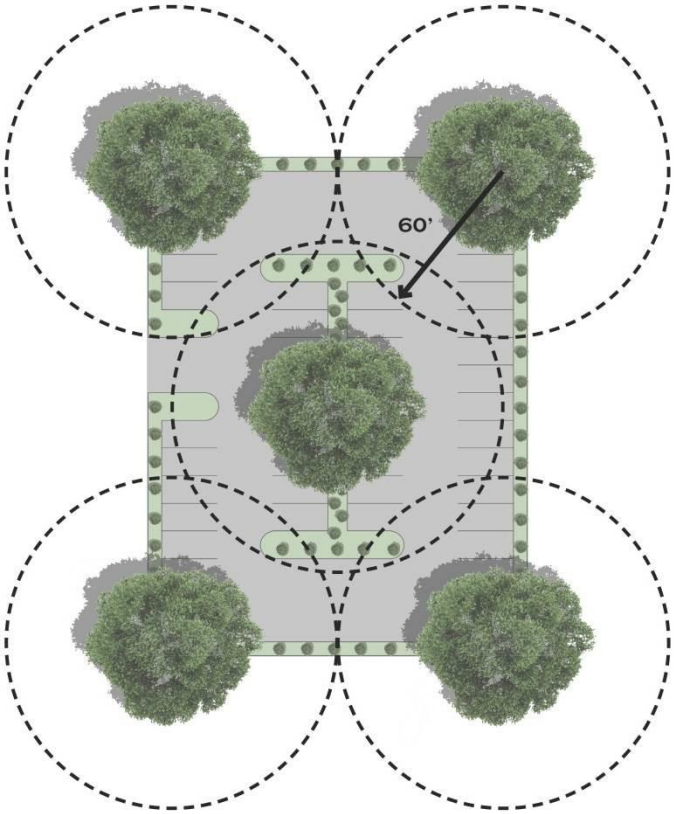
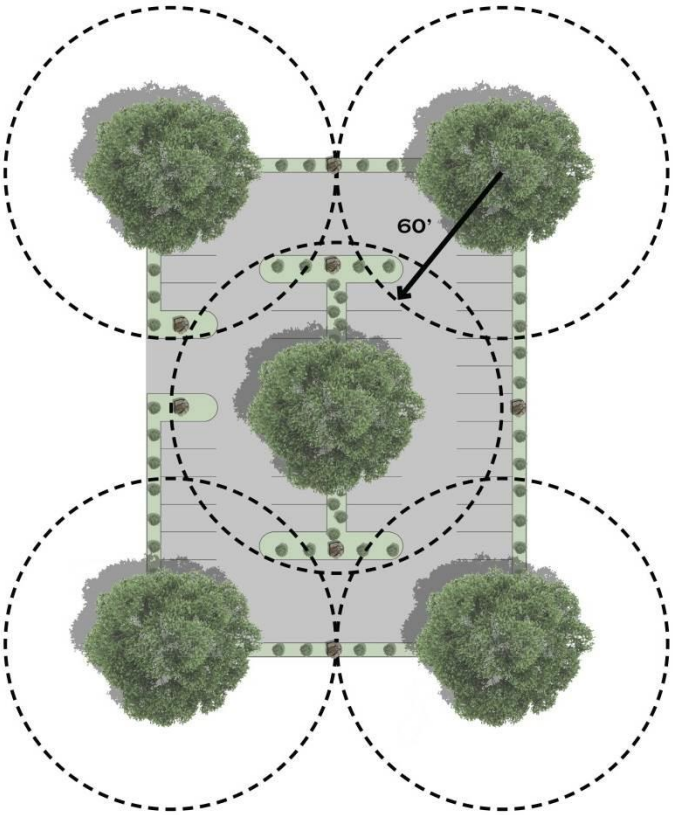
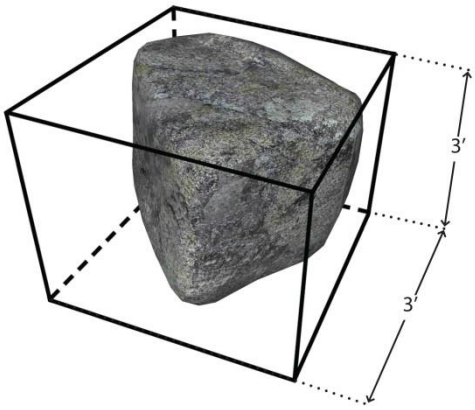
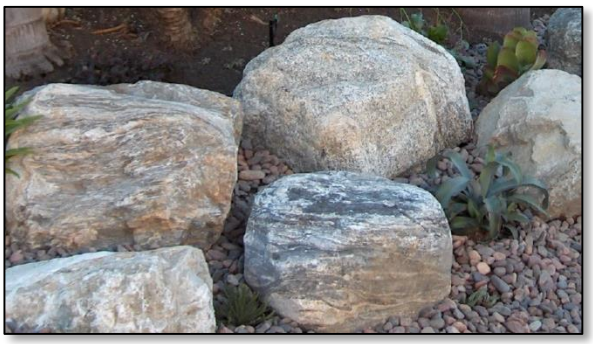


Corridor Overlay Performance Standard







River District Overlay Performance Standard

4.4.6 Building Yards

(A) The intent of building yards is to create a buffer between buildings and parking areas for pedestrians entering and exiting buildings and to improve the appearance of building entrances.

(B) Building yard width shall be based on the total area of the building. Widths shall be measured from the applicable building wall. Building yards shall be located on any side of a building where parking area is adjacent to the building. This shall not apply to the CBD, single-family dwellings, or two-family dwellings. Developments within the EID zoning district may follow an alternative standard as set forth in this Section.

(C) The building yard requirement may be met by the street yard requirement or parking lot yard requirement for buildings immediately adjacent to a street yard or parking lot.

(D) Building yards may be crossed by walkways to general access doorways, however a maximum of 25 percent of the building yard may be composed of walkways.

(E) In addition to the requirements of this Section, parking lot yard landscaping shall meet the general standards set forth in Section 4.4.2.

4.4.6.1 Multi-family Residential Building Yard Performance Standard

Meeting this standard will result in one (1) performance point.

TABLE 4.14: MULTI-FAMILY RESIDENTIAL BUILDING YARD PERFORMANCE STANDARD

Criteria	Performance Standard
Width	8 feet
Small Trees	1 per 50 linear feet of building yard
Large Shrubs	Optional
Medium or Shall Shrubs	4 per 10 linear feet of building yard
Mulch	Pine needles, mulch, or landscaping rock

FIGURE 4.19: Multi-family Residential Building Yard Performance Standard Diagram

4.4.6.2 Non-residential Building Yard Standards

TABLE 4.15: NON-RESIDENTIAL BUILDING YARD STANDARDS

Criteria	BASE STANDARD			PERFORMANCE STANDARD		
	Total Building Area			Total Building Area		
	Less than 20,000 square feet	20,000-60,000 square feet	Greater than 60,000 square feet	Less than 20,000 square feet	20,000-60,000 square feet	Greater than 60,000 square feet
Width	3 feet	5 feet	8 feet	5 feet	8 feet	10 feet
Small Trees	N/A	N/A	1 per 50 linear feet of building yard	N/A	1 per 50 linear feet of building yard	2 per 50 linear feet of building yard
Shrubs	2 per 10 linear feet of building yard	3 per 10 linear feet of building yard	4 per 10 linear feet of building yard	3 per 10 linear feet of building yard	5 per 10 linear feet of building yard	7 per 10 linear feet of building yard
Mulch	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock
Boulders[1]	Optional	Optional	Optional	Optional	1 per 50 linear feet of building yard	1 per 50 linear feet of building yard

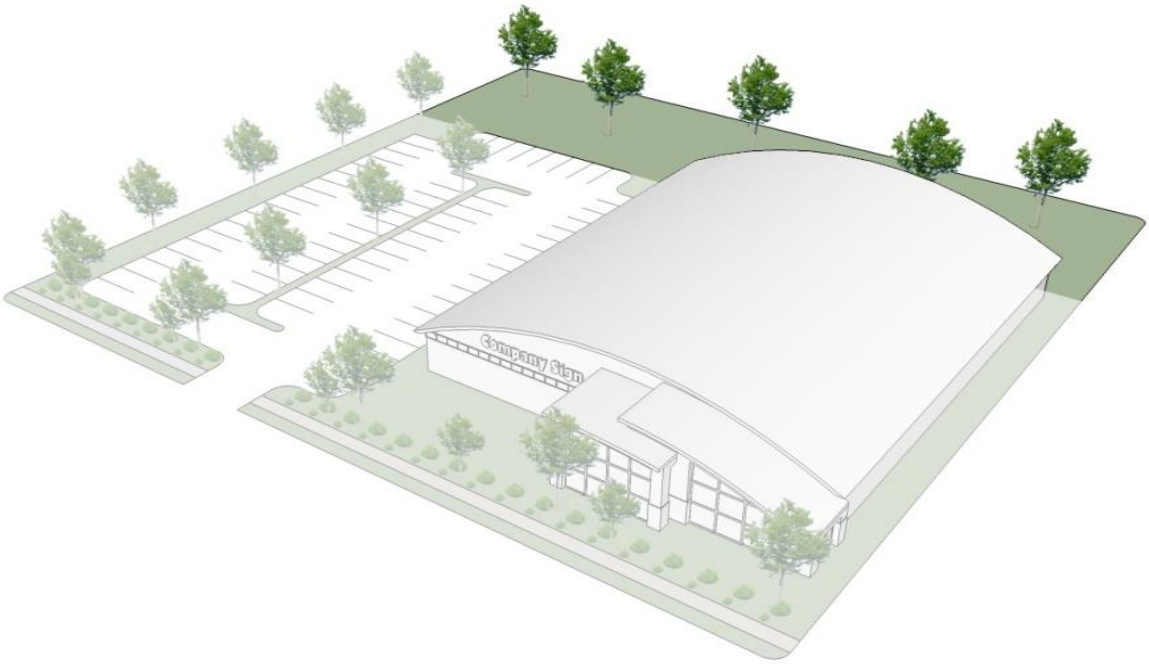
[1]Landscaping boulders used to meet the requirements of this section shall be a minimum of 3 feet in diameter. Each boulder allows the reduction in required shrubs at a rate of 3 shrubs per boulder. A minimum of 50 percent of required shrubs shall be retained.

FIGURE 4.20: NON-RESIDENTIAL BUILDING YARD EXAMPLE

4.4.6.3 EID Building Yard Standard

In lieu of the non-residential building yard standard, any development in the EID zoning district may install at a minimum one (1) large tree for each 5,000 square feet of building coverage. These large trees shall be distributed throughout the project site and are in addition to any required buffer yards, street yards, parking lot yards, and screening yards.

FIGURE 4.21: EID BUILDING YARD EXAMPLE



4.4.7 Screening Yard

The screening requirements of this Section shall apply to the garbage containers, mechanical equipment and outdoor storage for all new and expanding non-residential and multi-family development:

(A) Any permitted outdoor storage or utility structures shall be screened in the form of a wall or fence and shrubs as to provide an opaque screen for outdoor storage, waste containers and utility structures. The screen shall exceed the height of the storage or equipment by a minimum of six (6) inches and shall not exceed the height limitations set forth in Section 4.4.9 for fences and walls and shall not interfere with the operation of utility equipment.

(B) Dumpsters and other waste collection containers shall not be located in the front yard of any structure or within any required buffer yard.

(C) Ground-mounted mechanical equipment shall be located in the rear or side yard and screened from view of the street.

(D) Any fencing used to fulfill the requirements of this Section shall be supplemented with landscaping. Chain link fence with slats shall not be used to meet the requirement of this Section.

(E) All screens shall utilize building materials and design which are compatible with those used for the exterior of the principal building.

4.4.8 Residential Yards (single-family residential lots)

(A) The intent of the Residential Yard is to replace some of the trees removed during the grading process and establish a residential tree canopy and to provide a building yard transition between the street and structure.

(B) Residential yard trees may be placed anywhere on the property except that at least one (1) tree is placed in the front yard.

(C) Trees and shrubs shall be planted outside of the public right-of-way. Maintenance of the trees and shrubs shall be the responsibility of the individual property owner. Vegetation shall be selected from the approved plant list in Section 4.4.11. The use of existing vegetation to satisfy the large tree standard is encouraged.

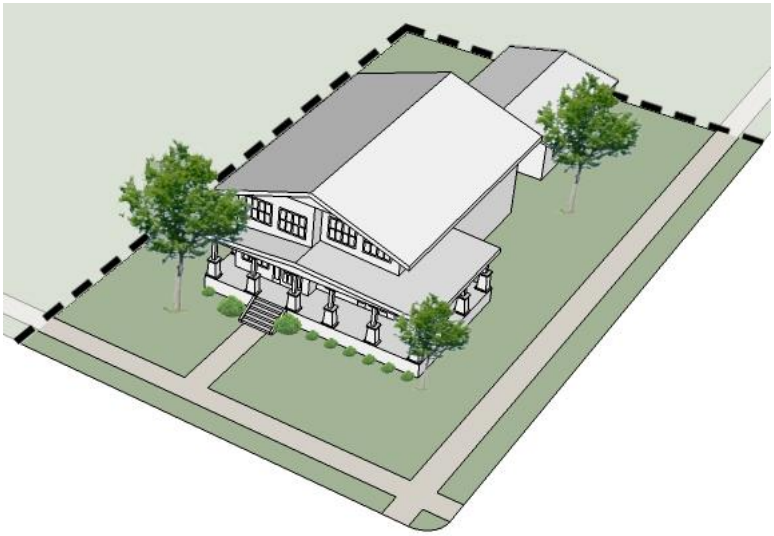
(D) Meeting this standard will result in one (1) performance point.

TABLE 4.16: RESIDENTIAL YARD PERFORMANCE STANDARD

Criteria	Minimum Performance Standard[1]
Large Trees	1 per 20 linear feet of building width
Small Trees	Optional
Large Shrubs	Optional
Medium or Small Shrubs	2 per 20 linear feet of building width
Mulch	Pine needles, mulch, or landscaping rock

[1]Multi-family residential developments in the CBD district shall automatically receive a performance point for residential yards

FIGURE 4.21: RESIDENTIAL YARD EXAMPLE



4.4.9 Fences and Walls

4.4.9.1 General Requirements

(A) Unless otherwise specified within this Ordinance, fences and walls shall be exempt from setback and yard requirements. Fences may be located up to the property line, but shall not be located in any right-of-way or sight-triangle. For streets without a right-of-way, fences shall be located a minimum of 10 feet from the edge of pavement. Fences may be located closer than 10 feet to the edge of pavement if there is an existing retaining structure, as long as the fence is no closer to the pavement than the existing retaining structure.

(B) Fences and walls not maintained in a safe manner or good order through neglect, lack of repair, manner of construction, method of placement, or otherwise deemed unsafe by the City shall be repaired, replaced, or removed.

(C) Fences and walls shall not contain advertising, signs, logos or other lettering

(D) Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot).

(E) Fences and walls shall be installed and maintained so as not to interfere with the sight distance in parking areas, driveways, and at street intersections.

(F) Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the NC Building Code or Soil Erosion and Sedimentation Control Act requirements.

4.4.9.2 Height and Materials

All new fences and walls shall meet the height and material requirements in the table below. The requirement of this subsection shall not apply to bona fide farms.

TABLE 4.17: FENCE AND WALL STANDARDS

Criteria	NC-O District[3]		LID, MID, HID, CBD and SID Districts		EID District	
	Front Yards	Side & Rear Yards	Front Yards	Side & Rear Yards	Front Yards	Side & Rear Yards
Max. Height[1]	5 feet	6 feet	5 feet	8 feet	6 feet	8 feet
Permitted Materials	• brick • stone • stucco or EIFS • vinyl • wood or composite wood • wrought iron or similar aluminum	• brick • chain link • stone • stucco or EIFS • vinyl • wood • wrought iron or similar aluminum	• brick • stone • vinyl • vinyl coated chain link[2] • wrought iron or similar aluminum	• brick • chain link • split-face concrete block • stone • stucco or EIFS • vinyl • wood or composite wood • wrought iron or similar aluminum	• brick • stone • vinyl • vinyl coated chain link[2] • wrought iron or similar aluminum	• brick • chain link • standard or split-face concrete block • stone • vinyl • wood or composite wood • wrought iron or similar aluminum

[1] Unless a higher fence exists on a common property line of an adjacent lot, in which case the proposed fence can be no higher than that fence. Retaining walls built to State Building Code are exempt from the maximum height requirements. The capital of a fence post or column may extend up to two feet above the maximum height.

[2] Chain link fences are not permitted in the front yard of any property located within the Corridor and River District Overlays.

4.4.9.3 Design

(A) Materials may include a combination of the listed permitted materials for each fence type. Fences shall be constructed of materials manufactured and sold as fencing materials. Wood palettes, tires, pipes, and similar items shall not be used as fencing materials.

(B) In addition to the requirements of this Section, front yard fences in the Corridor and River District Overlays shall meet the street yard design requirements of Section 4.4.1.1.

(C) Front yard fences shall not be opaque and shall be at least 50 percent transparent.

(D) The finished side of the fence shall be installed facing the street right-of-way and adjacent properties.

(E) Chain link fences for non-residential and multi-family residential uses shall be supplemented with landscaping to the outside of the fence at a minimum rate of one (1) large shrub per five (5) linear feet. Chain link fence with slats shall not be used to meet screening requirements.

(F) Barbed wire on top of chain link fences is permitted for rear yard fences not visible from a street in the EID district only.

(G) Fences and walls shall be compatible in design and material of the buildings on the property.

(H) No fence or wall which will block or materially impede the flow of stormwater runoff shall be constructed within a storm drainage easement.

4.4.10 Berms

Any berm that is constructed as part of a landscaping yard shall meet the following standards:

(A) The berm shall have a minimum height of three (3) feet, a minimum crown width of two (2) feet, and a side slope with a width to height ratio of no greater than three to one (3:1) if less than four (4) feet in height and a width to height ratio of no greater than four to one (4:1) if more than four (4) feet in height.

(B) Berms shall have adequate groundcover or other plant material to prevent erosion and shall be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, groundcover, mulch or similar material.

(C) Berms shall be designed to prevent standing water or the impeded flow of stormwater.

(D) Berms shall be free of structures or merchandise.

4.4.11 Approved Plant List

TABLE 4.18: LARGE TREES								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (ft)	Growth Rate	Group	Exposure
Acer floridanum/ Florida Maple or Southern Sugar Maple	1,2,3	6b to 8	Medium	Oval	40-50/20-25	Medium to Fast	Deciduous	Sun/Semi-Shade
Acer rubrum/ Red Maple	1,2	6b to 8	Medium	Rounded	40-50/25-35	Medium	Deciduous	Sun/Semi-Shade
Acer saccharum/ Sugar Maple	1,2	6b to 7a	Medium	Oval	60-80/25-40	Medium to Fast	Deciduous	Sun/Semi-Shade
Betula nigra/ River Birch	1,2	6b to 8	Medium	Oval	40-70/40-60	Fast	Deciduous	Sun
Cedrus Libani/ Cedar of Lebanon	1,2	5 to 7	Medium	Conical	80-100/80-100	Fast	Evergreen	Sun
Cryptomeria japonica/ Japanese Cryptomeria	1,2,3	6 to 8	Fine	Conical	50-60/20-30	Slow to Medium	Evergreen	Sun
Fraxinus americana/ White Ash	1,2,3	6 to 7	Medium	Oval	80/50	Fast	Deciduous	Sun
Franxius pennsylvanica/ Green Ash	1,2,3	6b to 8	Medium	Upright, Spreading	50-60/20-30	Medium	Deciduous	Sun
Gingko biloba/ Gingko or Maiden Hair Tree (male only)	1,2	6b to 8	Medium	Irregular	50-70/30-40	Very Slow	Deciduous	Sun
Gleditsia Triacanthos var. inermis/ Thornless Honey Locust	1,2	6 to 8	Fine	Oval/Rounded	50-75/35-50	Fast	Deciduous	Sun
Gymnocladus dioicus/Kentucky Coffee Tree	1,2	3 to 8	Medium to Coarse	Horizontal Branching	60-80/40-55	Slow to Medium	Deciduous	Sun
Liriodendron tulipifera/ Tuliptree (Yellow Poplar)	1,2,3	6b to 8	Coarse	Broad, Rounded	70-90/35-50	Fast	Deciduous	Sun

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TABLE 4.18: LARGE TREES (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (ft)	Growth Rate	Group	Exposure
Magnolia grandiflora/ Southern Magnolia	1,2	6b to 8	Course	Upright, Pyramidal	60-80/40-50	Slow to Medium	Evergreen	Sun
Metasequoia glyptosfroboides/ Dawn Redwood	1,2	6b to 8	Fine	Conical	40-50/20-25	Fast	Deciduous	Sun
Pinus strobus/ White Pine	1,2	6b to 7a	Medium	Pyramidal	80-100/25-40	Medium	Evergreen	Sun
Pinus taeda/ Loblolly Pine	1,2,3	6b to 7	Medium	Horizontal Branching	80-100/20-30	Fast	Evergreen	Sun
Platanus x acerfolia/London Planetree	1,2	4 to 8	Medium to Coarse	Pyramidal	75-100/60-75	Medium	Deciduous	Sun
Platanus occidentalis/Sycamore	1,2	6 to 8	Coarse	Oval/Rounded	75-100/75-100	Fast	Deciduous	Sun
Quercus acutissima/ Sawtooth Oak	1,2,3	6b to 8	medium	Broad, Oval	35-45/35-45	Medium	Deciduous	Sun
Quercus falcate/ Southern Red Oak	1,2	6b to 8	Coarse	Rounded	70-80/30-40	Medium	Deciduous	Sun
Quercus nigra/ Water Oak	1,2,3	6b to 8	Medium	Rounded	80-90/40-50	Medium to Fast	Deciduous	Sun
Quercus palustris/ Pin Oak	1,2	6b to 8a	Medium	Pyramidal	70-80/40-50	Medium	Deciduous	Sun
Quercus phellos/ Willow Oak	1,2	6b to 8	Fine	Rounded	80-100/40-50	Medium	Deciduous	Sun
Quercus shumardii/ Shumard Oak	1,2,3	6b to 8	Medium	Pyramidal	40-60/40-60	Medium	Deciduous	Sun
Quercus virginiana/ Live Oak	1,2,3	7b to 8	Medium	Rounded	60-80/50-60	Medium	Evergreen	Sun
Taxodium distichum/ Common Baldcypress	1,2,3	6b to 8	Fine	Conical	50-70/20-30	Medium	Deciduous	Sun
Tilia cordata/ Littleleaf Linden	1,2	6 to 8	Medium	Oval	50-70/35-50	Medium	Deciduous	Sun/Semi-Shade
Tilia platyphyllos/ Bigleaf Linden	1,2	2 to 6	Medium	Pyramidal	60-80/30-50	Medium	Deciduous	Sun/Semi-Shade

TABLE 4.18: LARGE TREES (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (ft)	Growth Rate	Group	Exposure
Ulmus parvifolia/ True Chinese Elm (Lacebark Elm)	1,2,3	6b to 8	Medium	Rounded	40-50/30-40	Fast	Deciduous	Sun
Zelkova serrate/ Japanese Zelkova	1,2,3	6b to 8a	Medium	Broad, Oval	50-80/50-60	Fast	Deciduous	Sun

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TABLE 4.19: SMALL TREES								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (ft)	Growth Rate	Group	Exposure
Acer buergeranun/ Trident Maple	1,2,3	7b to 8	Medium	Oval	20-25/10-15	Slow	Deciduous	Sun
Acer ginnala/ Amur Maple		3 to 8	Medium	Rounded	15-20/15-28	Slow	Deciduous	Sun/Semi-Shade
Acer griseum/ Paperbark Maple		4 to 8	Medium	Upright	20-30/15-25	Slow	Deciduous	Sun/Semi-Shade
Acer palmatum/ Japanese Maple	1,2	5 to 8	Fine to Medium	Rounded	15-25/10-25	Slow to Medium	Deciduous	Shade
Carpinus caroliniana/ American Hornbean (Ironwood)	1,2,3	6b to 5	Medium	Loose, Rounded	20-30/15-25	Slow	Deciduous	Sun/Shade
Catalpa bignonioides/ Southern Catalpa		5 to 9	Coarse	Irregular	25-40/20-30	Fast	Deciduous	Sun/Semi-Shade
Cercis canadensis/ Redbud or Judas Tree	1,2	6b to 8	Medium	Oval	25-30/20-28	Medium	Deciduous	Sun/Shade
Chionanthus virgincus/ Fringe Tree or Grancy Gray-beard	1,2	6b to 8	Coarse	Irregular	10-20/15-20	Slow to Medium	Deciduous	Sun/Semi-Shade
Cornus florida/ Flowering Dogwood	1,2	6 to 8	Medium	Conical	20-30/20-25	Slow to Medium	Deciduous	Sun/Semi-Shade
Cornus Kousa/ Kousa Dogwood	1,2	6 to 7	Medium	Horizontal Branching	10-15/8-10	Medium	Deciduous	Sun/Semi-Shade
Cupressocyparis leyiandii/ Leyland Cypress	1,2,3	6b to 8	Fine	Upright	60-70	Fast	Evergreen	Sun/Semi-Shade
Halesia Carolina/ Silverbell	1,2,3	6b to 8	Medium	Spreading	20-30/15-20	Medium	Deciduous	Sun/Semi-Shade
Ilex x attenuata/ 'Savannah,' Savannah Holly	1,2,3	6b to 8	Coarse	Pyramidal	25-30/10-15	Medium	Evergreen	Sun/Shade
Ilex decidua/ Possumhaw	1,2,3	6b to 8	Medium	Loose, Rounded	20-30/15-20	Medium	Deciuous	Sun/Semi-Shade

TABLE 4.19: SMALL TREES (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (ft)	Growth Rate	Group	Exposure
Ilex latifolia/ Lusterleaf Holly	1,2,3	6b to 8	Coarse	Pyramidal	20-25/15-20	Medium	Evergreen	Sun/Shade
Ilex x 'Nellie R. Stevens'/ Nellie R. Stevens' Holly	1,2,3	6b to 8	Coarse	Pyramidal	15-25/10-15	Medium	Evergreen	Sun/Shade
Ilex opaca/ American Holly	1,2	6b to 8	Medium to Coarse	Pyramidal	20-30/15-20	Medium	Evergreen	Sun/Shade
Ilex x attennata 'Fosteri'/ Foster's Holly		6 to 9	Fine to Medium	Upright, Pyramidal	20-30/7-10	Fast	Evergreen	Sun/Semi-Shade
Juniperus virginiana/Eastern Red Cedar	2,3	2 to 9	Fine to Medium	Upright	30-40/10-20	Medium	Evergreen	Sun
Koelreuteria paniuclata/ Goldenraintree	1,2,3	6b to 8	Fine	Rounded	20-30/10-15	Medium	Deciduous	Sun
Lagerstroemia indica/ Crape Myrtle (appropriate varieties)	1,2,3	6b to 8	Fine	Upright	20-30/10-15	Fast	Deciduous	Sun
Magnolia grandiflora 'Little Gem'/ Little Gem Magnolia	1,2	7 to 8	Coarse	Symmetrical	40-60/25-30	Medium to Fast	Evergreen	Sun/Semi-Shade
Magnolia stellata/ Star Magnolia	1,2,3	6 to 8	Medium	Oval Upright	15-20/10-12	Slow	Deciduous	Sun/Semi-Shade
Magnolia virginiana/ Sweetbay Magnolia	1,2	7 to 8	Medium	Wide, Spreading Irregular	8-12/6-10	Slow	Deciduous	Semi-Shade
Magnolia x loebneri/Sweetbay Magnolia		5 to 8	Medium	Rounded	20-30/20-30	Medium	Deciduous	Semi-Shade
Magnolia x soulangiana/ Saucer Magnolia	1,2,3	6b to 8	Coarse	Rounded	20-30	Medium	Deciduous	Sun/Semi-Shade

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TABLE 4.19: SMALL TREES (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (ft)	Growth Rate	Group	Exposure
Malus species/ Flowering Crab	1,2	6b to 8	Medium	Rounded to Upright	15-30/15-30	Medium	Deciduous	Sun
Oxydendrum arboretum/ Sourwood	1,2,3	6b, 7a	Medium to Coarse	Upright	30-40/15-20	Medium	Deciduous	Sun/Semi-Shade
Pinus thunbergiana/ Japanese Black Pine		5 to 8	Medium	Irregular	50-70/25	Slow to Medium	Evergreen	Sun
Pinus virginiana/ Virginia Pine	1,2,3	6b to 8a	Fine	Conical	15-30/10-30	Slow	Evergreen	Sun
Prunus caroliniana/ Carolina Laurel, Cherry	1,2,3	7 to 8	Medium	Oval	20-30/15-20	Fast	Evergreen	Sun/Shade
Prunus serrulata/ (many cultivars) Japanese Flowering Cherry	1,2	6b to 8a	Medium	Oval, Spreading, Weeping	20-30/20-30	Medium	Deciduous	Sun
Prunus x yedoensis/ Yoshino Cherry	1,2	6b to 8a	Medium	Oval, Spreading	10-15/20-25	Medium	Deciduous	Sun
Vitex agnus-castus/ Chastetree	1,2,3	6b to 8	Medium	Oval	15-20/10-15	Medium	Deciduous	Sun

TABLE 4.20: LARGE SHRUBS								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Buddleia davidii/ Butterfly Bush	1,2,3	6b to 8	Medium	Upright, Oval	10-15 ft	Fast	Deciduous	Sun
Calycanthus floridus/ Sweetshrub	1,2,3	6b to 8	Medium	Broad, Rounded	8-12 ft	Medium	Deciduous	Sun/Shade
Camellia japonica/ Camellia	1,2	6b to 8	Medium to Coarse	Rounded to Oval	8-10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Camellia sansanqua/ Sansanqua Camellia	1,2	7 to 8	Medium	Irregular to Upright	8-10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Chaenomeles speciosa/ Flowering Quince	1,2,3	6b to 8	Medium	Rounded	8-10 ft	Medium	Deciduous	Sun/Semi-Shade
Elaeagnus x ebbingei/ Elaegnus	1,2,3	6b to 8	Medium	Irregular	8-10 ft	Fast	Evergreen	Sun/Semi-Shade
Euonymus alatus/ Winged Euonymous	1,2,3	6b to 8	Medium	Mounded	15-20 ft	Slow	Deciduous	Sun/Shade
Hamamelis vernalis/ Vernal Witchhazel	1,2,3	6b to 8a	Medium	Dense, Rounded	8-12 ft	Medium	Deciduous	Sun/Semi-Shade
Hibiscus syriacus/ Shrub Althea (Rose of Sharon)	1,2,3	6b to 8	Medium	Rounded	8-12 ft	Medium	Deciduous	Sun
Ilex x attenuate 'Fosteri'/ Foster Holly	1,2	6b to 8	Medium	Upright	8-10 ft	Slow	Evergreen to Medium	Sun/Semi-Shade
Ilex cornuta 'Burfordii'/Burford Holly	1,2,3	6b to 7b	Coarse	Oval to Rounded	8-12 ft	Medium to Fast	Evergreen	Sun/Semi-Shade
Ilex verticillata/ Winterberry	3	3 to 9	Medium	Oval Rounded	6-15/6-10	Slow to Medium	Deciduous	Sun/Semi-Shade
Ilex x 'Emily Bruner'/ Emily Bruner Holly		7 to 9	Medium	Pyramidal	15-20/8	Medium	Evergreen	Sun/Semi-Shade

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TABLE 4.20: LARGE SHRUBS (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Ilex x 'Nellie R. Stevens'/ Nellie Stevens Holly	1,2,3	6 to 9	Medium	Upright Pyramidal	30-40/10-15	Fast	Evergreen	Sun/Semi-Shade
Juniperus Chinesis 'Hetzi'/ Hetz Juniper	2,3	6b to 8	Fine	Upright	15 ft	Fast	Conifer	Sun
Juniperus chinensis 'Pfitzeriana'/ Pfitzer Juniper	2,3	6b to 8	Fine	Broad, Upright	8-10 ft	Fast	Conifer	Sun
Leucothoe populufolia/ Fetterbrush	1,2	7a to 8	Medium	Upright, Arching	8-12 ft	Medium	Evergreen	Semi-Shade/Shade
Ligustrum japonicum/ Japanese Privet	1,2,3	7b to 8	Coarse	Dense/Rounded	8-12 ft	Medium	Evergreen	Sun/Shade
Ligustrum lucidum/ Waxleaf Privet	1,2,3	7b to 8	Medium to Coarse	Rounded	10-20 ft	Medium to Fast	Evergreen	Sun/Semi-Shade
Ligustrum sinense/ Chinese Privet	1,2,3	7a to 8	Medium	Dense, Rounded	10-15 ft	Medium	Evergreen	Sun/Shade
Ligustrum x vicaryi/ Vicary Golden Privet	1,2,3	6b to 8	Medium	Rounded	10-12 ft	Medium	Evergreen	Sun/Semi-Shade
Magnolia stellate/ Star Magnolia	1,2,3	6b to 8a	Coarse	Rounded	10-15 ft	Medium	Deciduous	Sun/Semi-Shade
Osmanthus fortune/ Fortunes Osmanthus	1,2,3	6b to 8	Medium	Rounded	8-10 ft	Slow to Medium	Evergreen	Semi-Shade
Pittosporum tobira/ Japanese Pittosporum	1,2	7b to 8b	Medium	Rounded	8-10 ft	Fast	Evergreen	Sun/Semi-Shade

TABLE 4.20: LARGE SHRUBS (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Podocarpus macrophyllus var maki/ Southern Yew	1,2	7a to 8b	Medium	Upright	8-12 ft	Medium	Evergreen	Sun/Semi-Shade
Pyrancantha species/ Firethorn	1,2	6b to 8	Medium	Irregular	10-12 ft	Fast	Evergreen	Sun
Rhododendron austrinum/ Florida Azalea (Red flower)	1,2	6b to 7	Medium	Rounded	8-12 ft	Medium	Deciduous	Semi-Shade/Shade
Rhododendron calendulaceum/ Flame Azalea (Yellow-pink flower)	1,2	6b to 7	Medium	Rounded	10-15 ft	Medium	Deciduous	Semi-Shade/Shade
Rhododendron canescens/ Piedmont Azalea (Rosy Purple Flower)	1,2	6b to 7	Medium	Rounded	10-15 ft	Medium	Deciduous	Semi-Shade/Shade
Rhus typhina/ Staghorn Sumac	1,2,3	6b to 8	Fine	Open, Spreading	15-25 ft	Fast	Deciduous	Sun/Semi-Shade
Ternstoemia gymnathera/ Cleyera	1,2	6b to 8	Medium	Upright	8-10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Thuja occidentalis 'Emerald'/ Emerald Arborvitae	1,2,3	4 to 8	Fine	Pyramidal	15/3-4	Medium	Evergreen	Sun
Viburnum lantana/ Wayfaringtree, Viburnum	1,2,3	6b to 8a	Coarse	Round, Spreading	10-15 ft	Medium	Deciduous	Sun/Semi-Shade

TABLE 4.20: LARGE SHRUBS (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Viburnum opulus/ European, Cranberrybush, Viburnum	1,2,3	6b to 8a	Coarse	Upright, Spreading	8-12 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum plicatum var. tomentosum/ Doublefile Viburnum	1,2,3	6b to 8a	Coarse	Round, Spreading	8-10 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum x pragense/ Prague Viburnum	1,2,3	6b to 8a	Medium	Oval	10-12 ft	Medium	Deciduous	Sun/Semi-Shade

TABLE 4.21: MEDIUM SHRUBS								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Abelia x grandiflora/ Abelia	1,2,3	6b to 8	Fine	Irregular	3-4 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Aucubajaponica/ Japanese Aucuba	1,2	6b to 8	Coarse	Upright	6-8 ft	Medium	Evergreen	Semi-Shade/Shade
Berberis julianae/ Wintergreen Barberry	1,2,3	6b to 8	Medium	Oval	5-6 ft	Slow to Medium	Evergreen	Sun
Buxus sempervirens/ Common Boxwood	1,2,3	6b to 7a	Fine to Medium	Rounded	5-8 ft	Slow to Medium	Evergreen	Semi-Shade
Camelia japonica/ Japanese Camelia	1,2	7 to 8	Medium	Upright Columnar	8-15/6-7	Fast	Evergreen	Semi-Shade
Callicarpa dictoma/ Purple Beautyberry	1,2	5 to 8	Medium	Slender, Arching Branches	3-4/4-5	Medium to Fast	Deciduous	Sun/Semi-Shade
Clethera alnifola/ Summersweet Clethra	1,2	3 to 9	Medium	Oval, Upright	4-10/4-6	Slow	Deciduous	Sun/Semi-Shade
Chamae cyparis pisifera (cultivars)/ Japanese False Cypress	1,2	4 to 8	Medium	Pyramidal	50-70/10-20	Medium	Evergreen	Sun
Cytissus scoparius/ Scotch Broom	1,2,3	6b to 8a	Fine	Upright Open	5-6 ft	Medium	Evergreen	Sun
Forsythia intermedia Hybrids/ Border Forsythia	1,2	6b to 8	Medium	Irregular	5-7 ft	Fast	Deciduous	Sun
Hydrangea macrophylla/ Bigleaf Hydrangea	1,2	6b to 8	Course	Rounded	5-8 ft	Fast	Evergreen	Semi-Sun
Hydrangea quercifolia/ Oakleaf Hydrangea	1,2,3	6b to 8	Coarse	Upright	6-8 ft	Medium	Deciduous	Sun
Ilex cornuta 'Burfodii Nana', Dwarf Burford Holly	1,2,3	6b to 8	Medium to Coarse	Rounded	5-6 ft	Slow	Evergreen	Sun/Semi-Shade

TABLE 4.21: MEDIUM SHRUBS (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Ilex glabra, Inkerry Holly	1,2,3	6b to 8	Medium	Rounded	6-8 ft	Medium	Evergreen	Sun
Illicium floridanum/Anise-tree	1,2,3	7 to 9	Medium	Rounded	6-10/4-8	Fast	Evergreen	Sun/Semi-Shade
Itea virginica/Virginia Sweetspire	1,2,3	5 to 9	Medium	Rounded	3-6/4-6	Medium to Fast	Evergreen	Sun/Semi-Shade
Juniperus virginiana 'Grey Owl'/Grey Owl Juniper		2 to 9	Fine	Horizontal Branching	2-3/4-6	Fast	Evergreen	Sun
Kalmia latifolia/ Mountain Laurel	1,2	6b to 7	Medium	Upright	5-8 ft	Slow to Medium	Evergreen	Semi-Shade
Prunus laurocerasus 'Schipkaensis'/Schipka Laurel		6 to 8	Fine to Medium	Upright Spreading	3-4/3-4	Medium	Evergreen	Sun, Shade
Prunus laurocerasus 'Otto Luyken'/Otto Luyken Laurel		6 to 8	Fine to Medium	Upright Spreading	3-4/3-4	Medium	Evergreen	Sun, Shade
Spiraea prunifolia 'Plena'/ Bridalwreath Spirea	1,2,3	6b to 8	Fine to Medium	Rounded	5-7 ft	Medium to Fast	Deciduous	Sun
Spiraea vanhouttei/ Vanhoutte Spirea	1,2,3	6b to 7b	Medium	Rounded	5-7 ft	Medium to Fast	Deciduous	Sun

TABLE 4.22: SMALL SHRUBS

Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Aucubajaponica/ Dwarf Aucuba	1,2,3	6b to 8	Coarse	Oval	3-4 ft	Slow	Evergreen	Shade/Semi-Shade
Azaleas, Hybrids	1, 2	6b to 8	Fine	Upright	3-5 ft	Slow to Medium	Evergreen	Semi-Shade
Berberis thunbergii/ Japanese Barberry	1,2,3	6b to 8a	Medium	Oval	3-5 ft	Medium	Evergreen	Sun/Semi-Shade
Buxus microphylla var. japonica/ Japanese Boxwood	1,2,3	7a to 8	Fine	Rounded	3-4 ft	Slow	Evergreen	Sun/Semi-Shade
Deutzia gracilis/ Slender deutsia	1,2,3	6b to 8a	Fine	Mounded	2-4 ft	Medium	Semi-Evergreen	Sun/Semi-Shade
Euonymus alatus 'Rudy Haag'/ Winged Euonymus		6 to 8	Medium	Upright, Horizontal	8-10/8-10	Medium	Deciduous	Sun/Semi-Shade
Hydrongea arborescens/ 'Annabelle' Smooth Hydrangea	1, 2	6b to 8	Coarse	Rounded	3-5 ft	Fast	Semi-Evergreen	Sun
Ilex cornuta/ 'Carissa' Carissa Holly	1,2,3	6b to 8	Medium	Rounded	3-4 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex cornuta/ 'Rotunda' Dwarf Chinese Holly	1,2,3	6b to 8	Coarse	Rounded	3-4 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex crenata/ 'Compacta' Compact Holly	1,2	6b to 7	Fine to Medium	Rounded	3-4 ft	Medium	Evergreen	Sun/Semi-Shade
Ilex crenata/ 'Green Lustre'	1,2,3	6b to 8a	Fine to Medium	Rounded	3-5 ft	Medium	Evergreen	Sun/Semi-Shade
Ilex crenata/ 'Helleri' (Heller) Japanese holly	1,2	6b to 7	Fine	Spreading	2-3 ft	Slow	Evergreen	Semi-Shade

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TABLE 4.22: SMALL SHRUBS (continued)								
Botanical Name and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Normal Height	Growth Rate	Group	Exposure
Ilex cranata/ 'Hetzi' Hetz Holly	1,2	6b to 7	Fine to Medium	Rounded	4-5 ft	Medium	Evergreen	Sun/Semi-Shade
Itea virginica/ Virginia Sweetspire	1,2,3	6b to 8b	Medium Branching	Upright	3-5 ft	Medium	Deciduous	Sun/Shade
Jasminum nudiflorum/ Winter Jasmine	1,2,3	6b to 8	Fine	Mounded Spreading	3-4 ft	Fast	Evergreen	Sun/Shade
Juniperus chinensis 'Parsonii'/ Parsons Juniper	2,3	6 to 8	Fine	Spreading	2-3/4-7	Slow	Evergreen	Sun/Semi-Shade
Kerria japonica/ Japanese Kerria	1,2,3	6b to 8	Medium	Upright Arching	3-5 ft	Medium	Evergreen	Sun
Pyracantha koidzumii/ 'Santa Cruz'	1,2,3	7b to 8	Medium	Prostrate Spreading	2-3 ft	Medium	Evergreen	Sun
Spirea x bumalda/ Bumald Spirea	1,2,3	6b to 8a	Fine	Mounded	2-3 ft	Fast	Deciduous	Sun/Semi-Shade
Spirea nipponica/ 'Snowmound'	1,2,3	6b to 8a	Fine	Mounded	3-5 ft	Fast	Deciduous	Sun/Semi-Shade
Spirea thunbergii/ Thunberg Spirea	1,2,3	6b to 8	Fine	Irregular	3-4 ft	Medium	Deciduous	Sun

Source: NC Cooperative Extension Publication AG 508-3 Drought Tolerant Plants for North Carolina

4.4.12 Plant Installation Standards

(A) Trees to be planted shall be selected from the approved species listed in this Section. The Development and Design Services Department may approve alternative large or small maturing trees excluding, but not limited to, Callory pears, Bradford pears, sweet gum (excludes fruitless varieties), catalpa, wild cherry, wild elm, princess, hackberry and tree-of-heaven.

(B) Minimum tree caliper at installation measured six (6) inches above ground on all large maturing trees shall be two (2) inches and the minimum height shall be eight (8) feet.

(C) Required landscaping shall be installed with the minimum size specifications:

TABLE 4.23: PLANT INSTALLATION SIZE STANDARDS

Type	Minimum Height at Maturity (ft)	Minimum Height at Planting	Minimum Caliper[1] at Planting (in)	Minimum Spacing (ft on center)
Large Tree	40	8 feet	2	20
Small Tree	15	6 feet	1.5	10
Large Shrubs	8	4 feet	n/a	4
Medium Shrubs	4	2 feet	n/a	2
Small Shrubs[2]	2	18 inches	n/a	2

[1] Caliper shall be measured six inches above the ground.
[2] Shrubs do not include ground covers.

(D) All plants shall be installed in accordance with the latest edition of the American Standards for Nursery Stock, published by the American Nurserymen's Association and the American National Standards Institute (ANSI).

(E) No trees identified as large trees shall be planted within 30 feet of overhead utility lines or within five (5) feet of a utility easement. This does not include low-voltage insulated or covered lines of 240 volts or less or telephone or cablevision lines.

(F) All plant material installed shall be free from disease and scarring.

(G) Plant materials shall be planted in accordance with generally accepted and recommended planting and growing practices.

(H) All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth.

(I) All plant material shall be planted in a manner which is not intrusive to utilities or pavement.

(J) Except as herein provided, on a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction shall be placed or maintained within a sight triangle as defined by this ordinance.

4.4.13 Landscaping Maintenance

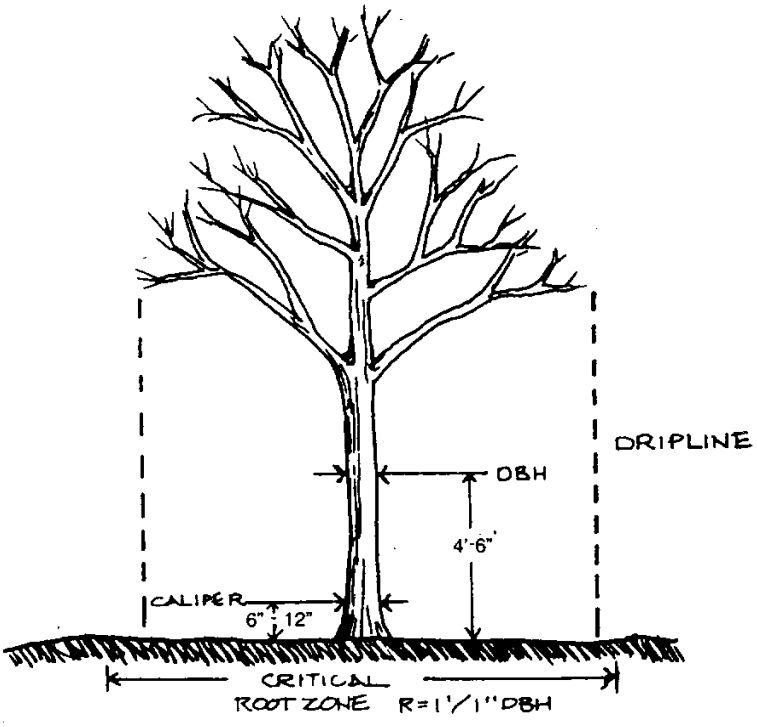
(A) Required landscaping shall be maintained to mature growth habit, and trees shall not be topped.

(B) The owner of the property where landscaping is required shall responsible for the maintenance of all landscaping materials. Such maintenance shall include all actions necessary to keep the landscaped area free of litter and debris; to keep plantings healthy; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas, or from creating nuisances to adjoining properties; and to keep walls, fences and berms in good repair and neat appearance.

(C) Any vegetation that is part of a required landscaping area shall be replaced within 60 days in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles, or pedestrians which could reduce the effectiveness of the required landscaping.

(D) See the *American National Standards for Tree Care Operations: Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices (Pruning)* published by the American National Standards Institute (ANSI A300) for pruning tips.

FIGURE 4.22: TREE MEASUREMENT TERMS



4.5 Open Space Standards

4.5.1 Purpose and Applicability

(A) The purpose of this Section is:

(1) To protect existing environmental resources including streams, wetlands, floodplains, soils, forest stands, specimen trees and other significant vegetation and wildlife.

(2) To promote the reservation of open space in environmentally sensitive areas.

(3) To provide of recreational amenities for the residents of the City.

(B) The standards of this Section shall apply to new developments with greater than five (5) residential dwelling units for which the developer is seeking performance points for density bonuses.

4.5.2 Open Space Allocation

Open space shall be dedicated in accordance with the table below for residential performance points. Percentages are based on total development area.

TABLE 4.24: OPEN SPACE ALLOCATION PERFORMANCE STANDARDS

Performance Point	Percent Open Space
1	Infill development on of 2 acres or less
1	20%
2	30%
3	40% or located in CBD

4.5.3 Existing Features Plan

An Existing Features Plan is intended to assist the developer and Development and Design Services Department to determine the best location for development and open spaces. Existing Features Plans are required for all developments in the River District Overlay and those developments meeting performance standards for increased residential density.

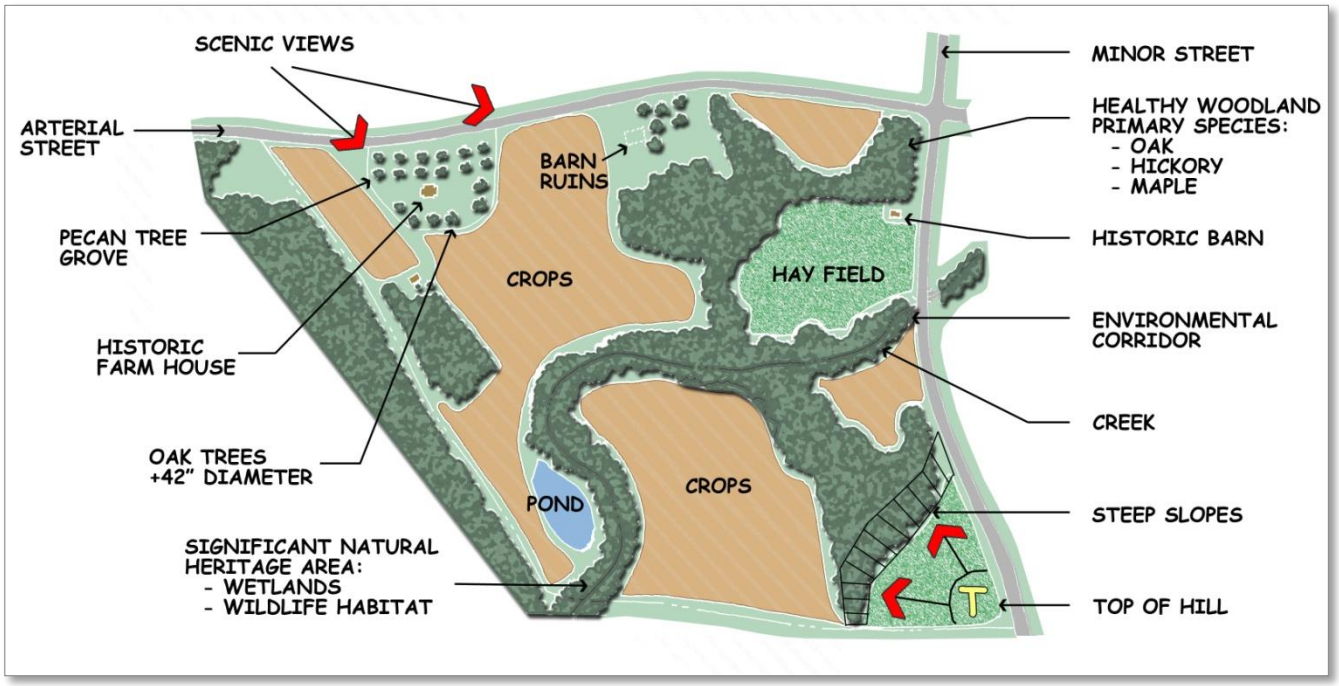


FIGURE 4.23: CONCEPTUAL EXISTING FEATURES PLAN

4.5.4 Configuration of Open Space

(A) The minimum width for any open space is 50 feet. Exceptions may be granted for trail easements, linear parks, and tree conservation areas.

(B) Access to open space shall be provided by an abutting street or easement of not less than 20 feet in width.

(C) At least 60 percent of open space shall be contiguous. For the purposes of this section, contiguous includes any open space bisected by a local street, provided that:

(1) A pedestrian crosswalk provides access to the open space on both sides of the street; and

(2) The right-of-way area is not included in the calculation of minimum open space required.

(D) Where feasible, the open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas.

(E) Open space should be directly accessible to the largest practicable number of dwelling units within the development.

(F) No lot shall be more than one quarter (1/4) mile from open space, as measured in a straight line from the lot line to the nearest point of open space.

(G) Access from a public or private street shall be provided to all designated open space with a minimum 15 foot wide access to the open space area. Lakes or ponds within the development used as open space shall provide adequate community access beyond this 15 foot minimum as determined by the Development and Design Services Department.

4.5.5 Open Space Types

All open space used to meet the performance standards of this section shall be classified as one (1) or more of the following categories and be classified as private common area open space or public open space. The Existing Features Plan should be used as a guide by the developer and Development and Design Services Department to determine the most appropriate open space type and location. Also City and County Plans particularly park and open space plans, shall be considered when evaluating the most appropriate open space type. One bonus performance point shall be granted for any open space that fulfills a park or greenway segment identified on an adopted plan.

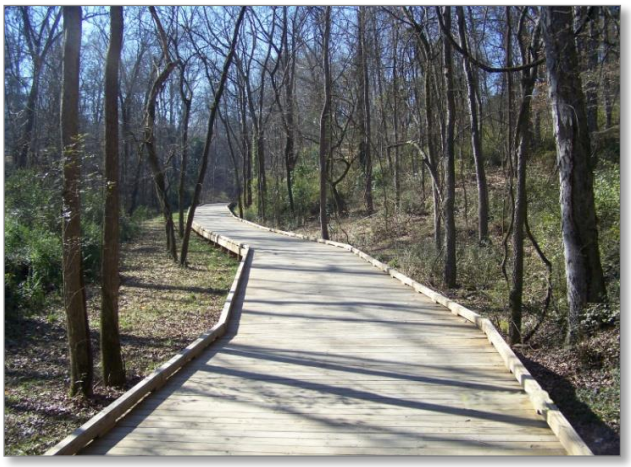
4.5.5.1 Nature Preserve

Open spaces designated as nature preserves shall be left largely undisturbed except foro the optional clearing of underbrush for the provision of a walking trail. Nature preserves are the encouraged open space type for floodways; flood fringe areas (100-year floodplain); stream buffers as required by the Watershed Protection Ordinance or Phase II Stormwater Ordinance; slopes of greater than 25 percent; jurisdictional wetlands under federal law (Clean Water Act, Section 404) than meet the definition applied by the US Army Corps of Engineers; tree conservation areas; individual existing healthy trees greater than 10 inches DBH and their critical root zones; habitat for federal or state endangered or threatened species; and scenic viewsheds such as ridge lines, field borders, meadows, fields, river views, natural woodlands that can be seen from roadways.

EXAMPLES OF NATURE PRESERVES

4.5.5.2 Greenway

Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways connect points of interest in a community such as schools, parks, and other civic uses. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for, at a minimum, trails for walking, jogging, and biking. Greenways as designated on adopted City and County plans to provide for walking, jogging, and biking connecting points of interest in the community such as schools parks and other civic uses.



EXAMPLES OF GREENWAYS

4.5.5.3 Greenbelt

Greenbelts run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent communities. Greenbelts are wider and provide more existing natural vegetation than any buffer yard required as part of Section 4.4.3. Greenbelts differ from the other types of open spaces in that they are left natural, and are not intended for recreational use.

EXAMPLES OF GREENBELTS

4.5.5.4 Agricultural Preserve

Open spaces designated as agricultural preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities. Agricultural preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations.

EXAMPLES OF AGRICULTURAL PRESERVES

4.5.5.5 Recreational Amenity Center

Recreational amenity centers are intended for active recreational use and may include swimming pools, splash pads, tennis courts and similar uses. Recreational amenity centers shall be centrally located to the residences that they serve.

EXAMPLES OF RECREATIONAL AMENITY CENTERS

4.5.5.6 Playground

Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks or recreational amenity centers, or may stand alone.

EXAMPLES OF PLAYGROUNDS

4.5.5.7 Square or Green

Squares or greens are primary intended for passive recreational use and may have monuments, pavilions, sitting areas. Squares or greens shall be bounded by streets on a minimum of 50 percent of their perimeter. Squares or greens are encouraged to be entirely bounded by streets

and/or lanes. Squares and greens shall be planted parallel to all streets and shall contain canopy trees along street frontages.

EXAMPLES OF SQUARES

4.5.5.8 Park

Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10 percent of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens.

EXAMPLES OF PARKS

4.5.6 Allowed Uses of Open Space

Unless otherwise stated, open space intended to achieve the performance standard may be used for the following:

(A) Conservation areas for natural, archeological or historic resources;

(B) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(C) Pedestrian or multi-purpose trails;

(D) Passive recreation areas;

(E) Active recreation areas, provided that impervious area is limited to no more than 25 percent of the total open space for the development;

(F) Golf courses (excluding clubhouse areas and maintenance facilities), proved that the area does not exceed 50 percent of the total open space for the development and that impervious area is no more than 25 percent of the total open space for the development;

(G) Water bodies, such as lakes, pond and floodways, provided that the total surface area does not exceed 50 percent of the total open space for the development;

(H) Crop production, community garden;

(I) Stormwater control measures, provided that area does not exdeed 25 percent of the total open space for the development and the stormwater control measure is designed as a pond amenity of greater than one-half (1/2) acre or greater, is surrounded by open space, and is accessible to all residents; and

(J) Easements for drainage, access and underground utilities.

4.5.7 Prohibited Uses of Open Space

Open space intended to achieve the performance standard shall not be used for the following:

(A) Individual conventional wastewater disposal systems (excluding innovative systems);

(B) Overhead electric transmission lines or high voltage electric transmission lines; and

(C) Streets and impervious parking areas.

4.5.8 Open Space Ownership and Maintenance

(A) Open space may be owned or administered by one (1) or a combination of the following methods:

(1) Fee simple ownership by a unit of government or private non-profit land conservancy;

(2) Common ownership by Homeowners Association;

(3) Split deeded ownership by individual property owners within the development;

(4) By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Section. (i.e. farming, equestrian facility).

(5) Deed restricted open space easements on individual private properties.

(B) The City Council shall have the authority to accept or reject land dedications made as a requirement of this Section.

(C) The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(D) In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this Ordinance, the City may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association.

(E) The developer shall place in a conspicuous manner upon the Final Plat of the subdivision a notation concerning control of open space.

(F) The developer will provide proof of registration of the Articles of Incorporation with the appropriate state agency for the formation of the Homeowners Association to the Development and Design Services Department.

(G) Homeowners' Associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. A copy of the recorded document shall be provided to the Development and Design Services Department and such document shall include, but not be limited to, the following:

(1) Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.

(2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.

(3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.

(4) The open space restrictions must be permanent, not just for a period of years.

(5) The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance of open space and other facilities under their control.

(6) The association or similar legal entity must be able to adjust the assessment to meet changing needs.

(7) The association shall be responsible for maintaining all public storm water drainage systems and easements within the development not being maintained by the City, County, State or other approved entity.

(H) It shall be expressly stated within the restrictive covenants/homeowners association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.

4.6 Parking and Access

4.6.1 Purpose and Applicability

(A) The purpose of this Section is to ensure that adequate and well-designed parking and site access is provided for developments in the City of Morganton.

(B) Unless otherwise specified, the requirements of this Section shall be initiated by any one (1) or more of the following activities on a property:

(1) New construction or the initial use of the property

(2) A substantial change of use or change in zoning classification

(3) Any building or parking expansion of greater than 20 percent

(C) The requirements of this section do not apply to single-family or two-family residential development on existing lots of record that are not utilizing performance standards for density bonuses.

4.6.2 General Provisions

(A) All off-street parking areas shall be landscaped in accordance with the regulations in Section 4.4.

(B) No off-street parking area shall be located over an on-site wastewater drain field.

(C) Off-street parking areas shall be properly maintained in all respects. In particular, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

4.6.3 Parking Lot Design

(A) Parking lots shall not be located closer than 10 feet from a public right-of-way, except in the CBD zoning district. In the CBD zoning district, parking lots shall not be located closer than five (5) feet from the public right-of-way.

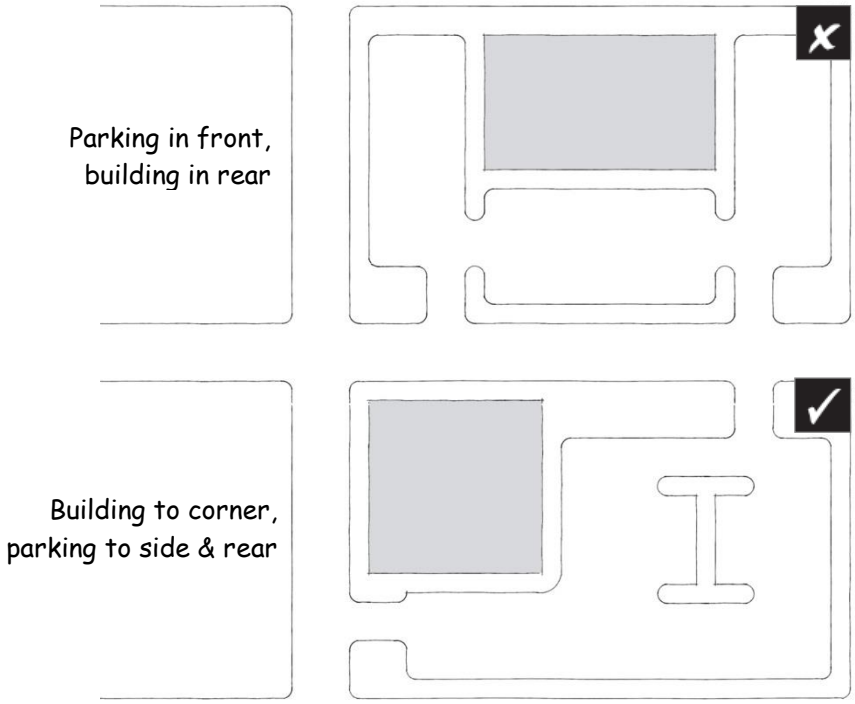
(B) Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure. Curbs or bumpers are required and shall be a minimum of six (6) inches high.

(C) Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency and other public service vehicles.

(D) No surface parking or circulation driveway is permitted within any required or established buffer area, except that driveways providing access to the parking area may be installed across these areas.

(E) No new off-street parking area in the CBD districts shall extend toward a public street right-of-way beyond the front wall of the closest adjacent building. See Figure 4.25.

FIGURE 4.25: PARKING LOCATION IN RELATION TO BUILDINGS IN THE CBD



(F) All new or expanding off-street parking areas in the CBD zoning district that abut a public street right-of-way shall be screened with a hedgerow, masonry wall, or fence of at least three (3) feet in height that meets the fence and wall requirements of Section 4.4.9. These features shall not impeded sight lines within sight triangles as defined in Section 4.2.1 (G).

CBD Parking Lot Screen Wall

(G) No parking aisle serving the general public that contains more than 10 parking spaces shall dead end, except that the Development and Design Services Department may approve dead-end aisles for up to 20 spaces on small lots where expected traffic is minimal. Any parking aisle that dead-ends shall be provided a suitable turnaround.

(H) For non-residential uses in the Corridor and River District Overlays (except for civic uses and developments in the EID zoning district) with more than two (2) rows of parking located in the front yard of the principal building, the following standards shall be met in addition to the landscaping requirements of Section 4.4.5:

(1) Parking shall have additional screening using one (1) of the following methods:

(a) The minimum street yard width required by Section 4.4.4 shall be doubled and the number of shrubs shall be increased by 25 percent; or

(b) Parking may be shared and screened with outparcel buildings as shown Figure 4.26 below.

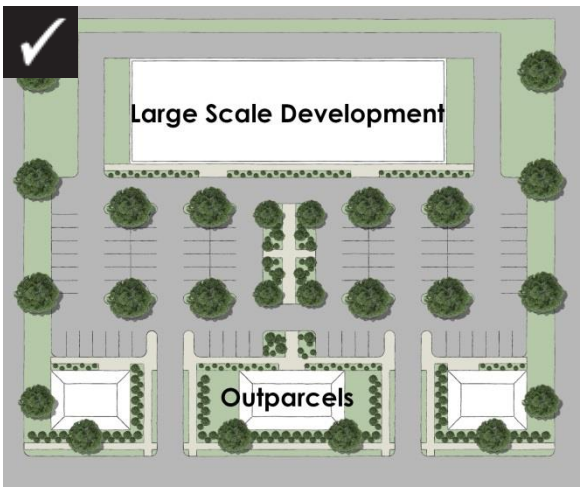
(2) No more than three (3) parking aisles (defined as a travel lane and the parking located on each side) shall abut. Otherwise, parking aisles shall be separated from each other by planted medians which may include pedestrian walkways. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building (s). On small lots, this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building. These corridors may be delineated by a paving material which differs from that of vehicular areas and planted to provide shade. Small posts or bollards may be included. (See Figure 4.26).

(3) Landscape islands that are arranged in a manner that clearly delineates parking bays and drive isles. A landscape island shall, at a minimum, be placed at the end of each parking bay.

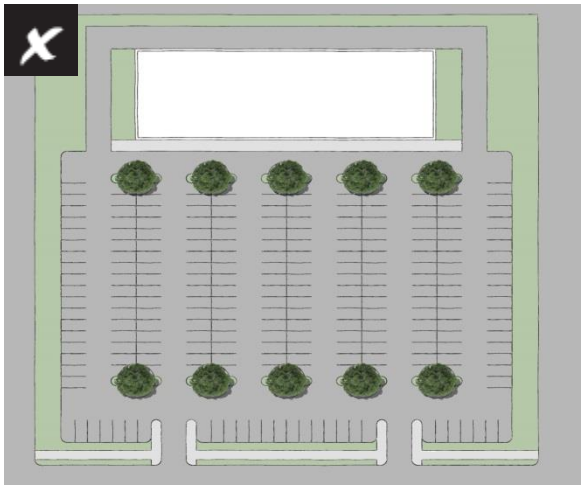
(4) All open pedestrian walkways, sidewalks, and passageways shall be landscaped on a ratio of 1 canopy tree and 15 shrubs per 100 linear feet of walkway, sidewalk, or passageway. The landscaping shall be installed within 10 feet of the edge of pedestrian walkway, sidewalk, or passageway. This landscaping material may be used meet required parking lot yard landscaping requirements.

FIGURE 4.26: EXAMPLE OF PARKING AREA FOR LARGE SCALE DEVELOPMENT

Option 1-Street Yard doubled with 25% more shrubs



Option 2-Outparcels



No Outparcels, Enhanced Street Yard or Landscaped Pedestrian Walkway

Planted Median with Pedestrian Walkway

No Parking Aisle Separation

4.6.4 Parking Dimensions

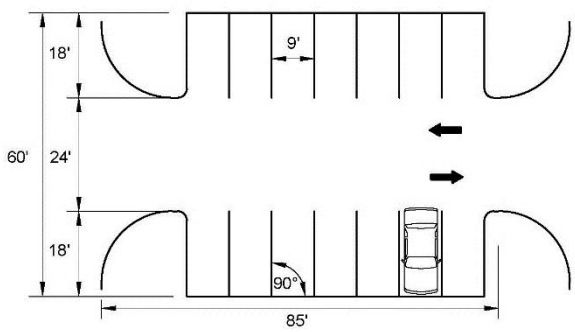
All new parking spaces shall meet the following dimensional requirements:

TABLE 4.25: PARKING DIMENSIONS

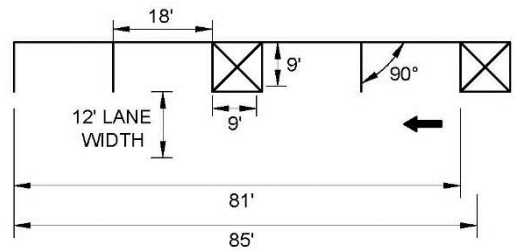
Angle	Stall Width	Stall Depth	Aisle Width		Planting Island Width	Parking Bay Width		Bumper Overhang (front/rear)
			One-way aisle	Two-way aisle		One-way aisle	Two-way aisle	
0°	9.0 ft.	26.0 ft.	12.0 ft.	20.0 ft.	7 ft.	30 ft.	38 ft.	N/A
45°	9.0 ft.	18.0 ft.	12.0 ft.	24.0 ft.	7 ft.	44 ft.	56 ft.	2.0’ / 4.0’
60°	9.0 ft.	18.0 ft.	18.0 ft.	24.0 ft.	7 ft.	46 ft.	58 ft.	2.0’ / 4.0’
90°	9.0 ft.	18.0 ft.	N/A	24.0 ft.	7 ft.	N/A	60.0 ft.	2.0’ / 4.0’

N/A=Not applicable

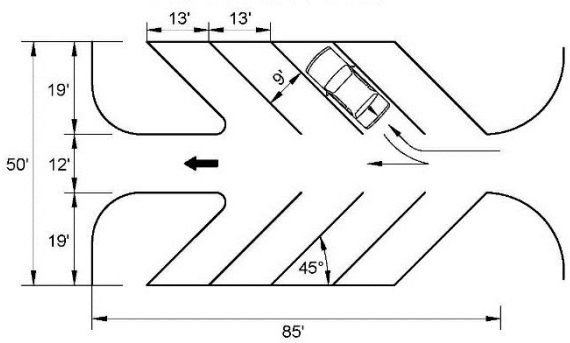
FIGURE 4.27: PARKING DIMENSIONS



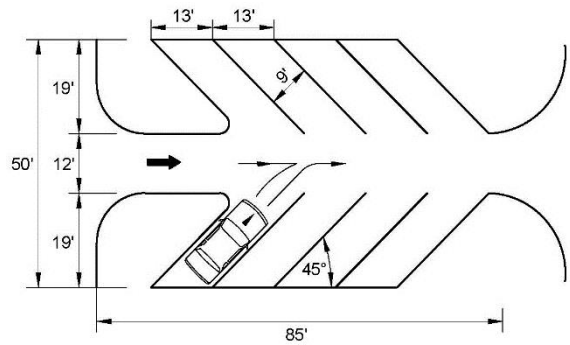
Two-way Aisle 90°



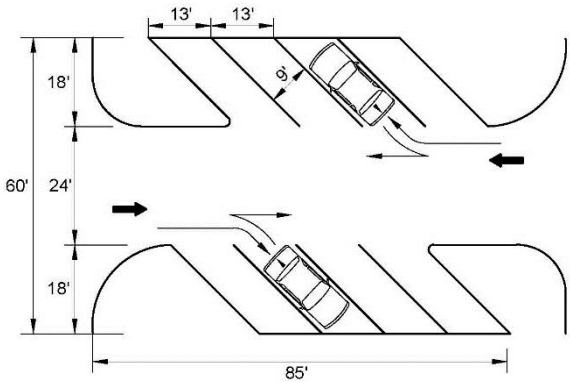
Typical 0° Parking



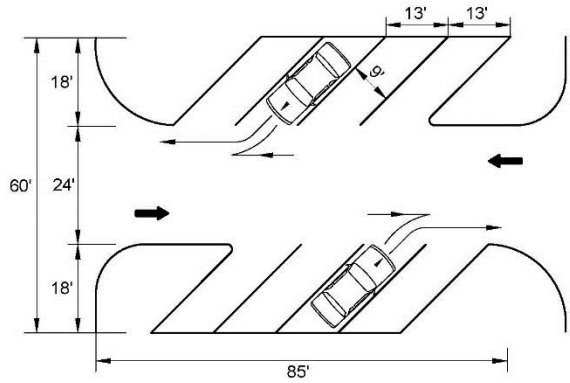
One-way Aisle 45 (Typical)



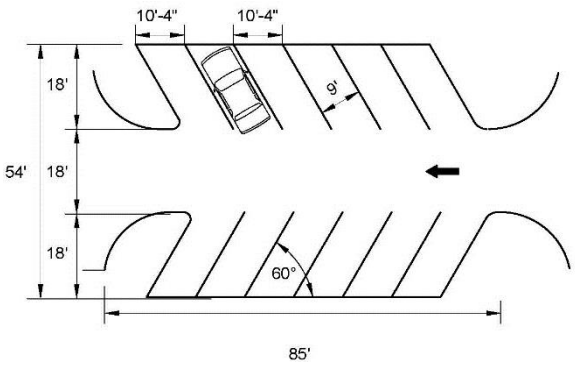
One-way Aisle 45° (Reverse Angle)



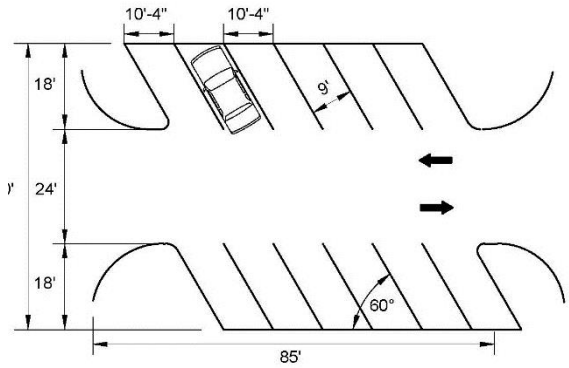
Two-way Aisle 45 (Typical)



Two-way Aisle 45° (Reverse Angle)



One-way Aisle 60°



Two-way Aisle 60°

4.6.5 Parking Surface

(A) All parking areas within the Corridor and River District Overlays (except for single-family and two-family residential uses) shall be paved with asphalt, concrete, pavers or similar paving material and shall be landscaped in accordance with the requirements of Section 4.4.5. All parking areas of greater than 20 spaces shall also be constructed with standard or valley curb and gutter or an alternative Low Impact Development method as shown in the pictures below.

Standard curb and gutter

Curb and gutter with curb cuts directed to landscaped area

Recessed curb with sheet flow drainage to landscaped area

(B) Non-residential and multi-family uses not located in the Corridor or River District Overlays shall pave all front and side yard parking areas, driveways and ADA parking spaces. The minimum number of spaces required for the use shall be paved. Any additional parking areas located in rear yards may be gravel or similar durable wearing surface. Curb and gutter is not required for developments not located in the Corridor or River District Overlays. However, wheel stops shall be provided with a minimum two (2) foot separation from the edge of landscaped areas.

Wheel stops with sheet flow drainage to landscaped area

(C) All paving shall meet the requirements of the City of Morganton Engineering Standards and Specifications.

4.6.6 Number of Parking Spaces

(A) All new developments in all zoning districts shall provide a sufficient number of off-street parking spaces to accommodate the number of vehicles that ordinarily are to be attracted to the development in question. Proof of sufficient parking shall be provided upon application for a Zoning Permit.

(B) The City recognizes that the Parking Requirements Table set forth in this Section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Development and Design Services Department is authorized to determine the parking requirements using the Table as a guide.

(C) See the Parking Requirements Table on the following pages for minimum parking space requirements. The Development and Design Services Department may reduce the minimum number of parking spaces required or increase the maximum number allowed by up to 10 percent if the applicant can demonstrate that the number of required parking spaces is excessive or inadequate due to use or property constraints.

(D) Except for single-family residential uses, two-family residential uses, and uses providing 10 or fewer on-site parking spaces, the maximum number of parking spaces provided shall be 125 percent the required minimum shown in the Parking Requirements Table on the following pages. Any number of parking spaces above the maximum shall utilize permeable pavers or Low Impact Development design.

Permeable Pavers

TABLE 4.26: NUMBER OF PARKING SPACES REQUIRED

Use	Minimum Number of Spaces
Agricultural	
Agricultural uses (unless otherwise specified)	N/A
Equestrian uses (horseback riding, stables)	1 per horse stall
Greenhouse or horticultural nursery	1 per 800 square feet of gross sales floor area
Produce stand (permanent)	1 per 300 square feet of gross floor area
Residential	
Residential uses (unless otherwise specified)	2 per dwelling
Accessory dwellings	1 per dwelling
Bed & breakfast inns	2 +1 per guest room
Home occupations, customary (includes daycare homes)	Residential use requirement + 1 space
Home occupations, intensive	Residential use requirement + 1 space per employee
Civic, Government, & Institutional	
Civic, Government, and Institutional uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Colleges, Universities, & associated facilities	1 per 4 students
Correctional facility	1 per 2 employees on peak shift
Community outreach offices	2 per employee on peak shift
Emergency Services (fire, police, EMT, & similar uses)	1 per employee + 1 per 3 volunteer personnel on peak shift + 1 per 200 square feet of office space
Hospitals, public and private	1 per 400 square feet of gross floor area of administrative area + 1 per bed
Religious institutions & related uses	1 per 4 seats
Research facilities	1 per 2 employees on peak shift
Residential care facilities	1 space per 2 beds
Schools and associated facilities, elementary and middle (public and private)	1.5 per classroom
Schools and associated facilities, high (public and private)	10 per classroom
Schools (trade & vocational)	1 per 4 students
Office & Service	
Office and Service uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Artists, craftsmen	1 per employee
Crematories	1 per employee at peak shift
Funeral homes and mortuaries	1 per 4 seats
Hotels and motels	1 per room + 2 spaces per 3 employees at peak shift
Motion picture production	1 per employee at peak shift
Motor vehicle or boat services	4 spaces per service bay + 1 per employee at peak shift
Research, development or testing services	1 per employee + spaces required to satisfy projected peak parking demands
Retail & Wholesale	
Retail uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Farmer's markets	1 per every 4 persons of max. capacity
Microbreweries and wineries (with on-site sales)	1 per 300 square feet of gross floor area or 1 per every 3 seats (if seating is provided)
Motor vehicle or boat sales or rental	3 spaces + 1 space per every 400 square feet of building gross floor area
Restaurants	5 spaces plus 1 per every 3 seats

Wholesale	1 per 400 square feet of gross office & sales floor area + 2 per each 3 employees at peak shift
Recreation & Entertainment	
Recreation and Entertainment Uses (unless otherwise specified)	1 per 150 square feet of gross floor area or 1 per every 4 persons of max. capacity (as applicable)
Campgrounds	1.25 per campsite at campground (1 at each campsite)
Electronic Gaming Operations	1 per two (2) gaming machines/terminals/computers or 1 per 100 square feet of gross floor area, whichever is greater
Industrial, Warehousing, Transportation, & Utility	
Industrial, Warehousing, Transportation, and Utility uses (unless otherwise specified)	1 per employee + 1 per each company vehicle at peak shift
Junkyards, salvage yards, recycling operations and similar uses	1 per employee on peak shift + 1 per 5,000 square feet devoted to material storage + 1 per company vehicle
Warehouse, mini	1 per 4,000 square feet of gross floor area
Wireless telecommunications towers	1 space
Other	
Drive-throughs (associated with permitted use)	Stacking for 5 vehicles at each bay (on-site)
Temporary Uses	Adequate for use

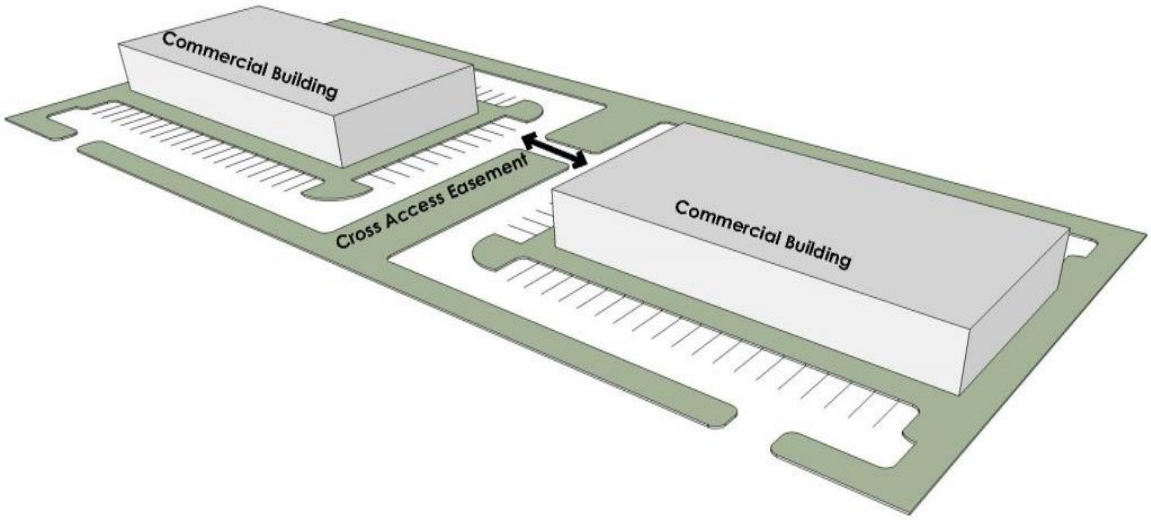
4.6.7 Parking Location, Sharing, and Connectivity

(A) On all off-street parking lots, the required space shall be provided on the same plot with the use or on a lot separated therefrom by not more than 400 feet, except for residential uses, which must be provided on the same plot.

(B) The joint use of shared off-street parking between two (2) uses may be made by contract by two (2) or more adjacent property owners. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half (1/2) of the parking spaces credited to both uses.

(C) All newly constructed parking lots shall be designed to accommodate interconnection between the sites unless natural features prevent connection.

FIGURE 4.28: PARKING CONNECTIVITY



4.6.8 Loading Area Requirements

(A) Subject to Subsection (E), whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.

(B) Loading and unloading areas shall be so located and designed so that the vehicles intended to use them can:

(1) maneuver safely and conveniently to and from a public right-of-way; and

(2) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(C) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking.

4.6.9 Parking of Commercial and Recreational Vehicles

(A) On any LID or MID zoned lot of less than one (1) acre in size, commercial vehicles which may be parked on an overnight basis shall be limited to vans and trucks of no greater than three (3) axles. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any LID or MID district for a period of up to 24 hours.

(B) No residentially-developed lot may be used as the base of operation for any freight hauling truck.

(C) For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles.

(D) In case of extreme emergency, not for convenience purposes, recreational vehicles may be utilized for temporary living quarters for a period of no longer than 60 days.

4.6.10 Driveways

(A) Driveways that connect to state-maintained streets shall comply with NCDOT standards.

(B) Driveways that connect to City-maintained streets shall comply with the Public Works standards set forth in Part 4 Article C of the Morganton City Code.

4.7 Infrastructure

4.7.1 Purpose and Applicability

(A) The purpose of this Section is to ensure that new developments provide adequate infrastructure that is compatible with adopted plans and City Standards. It is also the intent of this Section to provide for enhanced infrastructure in the Corridor and River District Overlays and within higher density residential development through performance standards.

(B) Unless otherwise specified, the requirements of this Section shall be initiated by any one (1) or more of the following activities on a property:

(1) New construction or the initial use of the property

(2) A substantial change of use or change in zoning classification

(3) Any building or parking expansion of greater than 20 percent

4.7.2 Conformance with Long Range Transportation Plan (LRTP)

(A) The location and design of streets shall be in conformance with the Greater Hickory Metropolitan Planning Organization (MPO) Long Range Transportation Plan (LRTP).

(B) In any case where any part of a development lies within the corridor of a thoroughfare shown on a roadway corridor map adopted pursuant to NCGS Chapter 136, Article 2E, no development approval shall be granted with respect to the property in the roadway corridor. Provided, however, no development plan approval shall be delayed by the provision of the roadway corridor map procedure for more than three (3) years from the date of its original submittal.

4.7.3 Streets

4.7.3.1 Compliance with Subdivision Ordinance

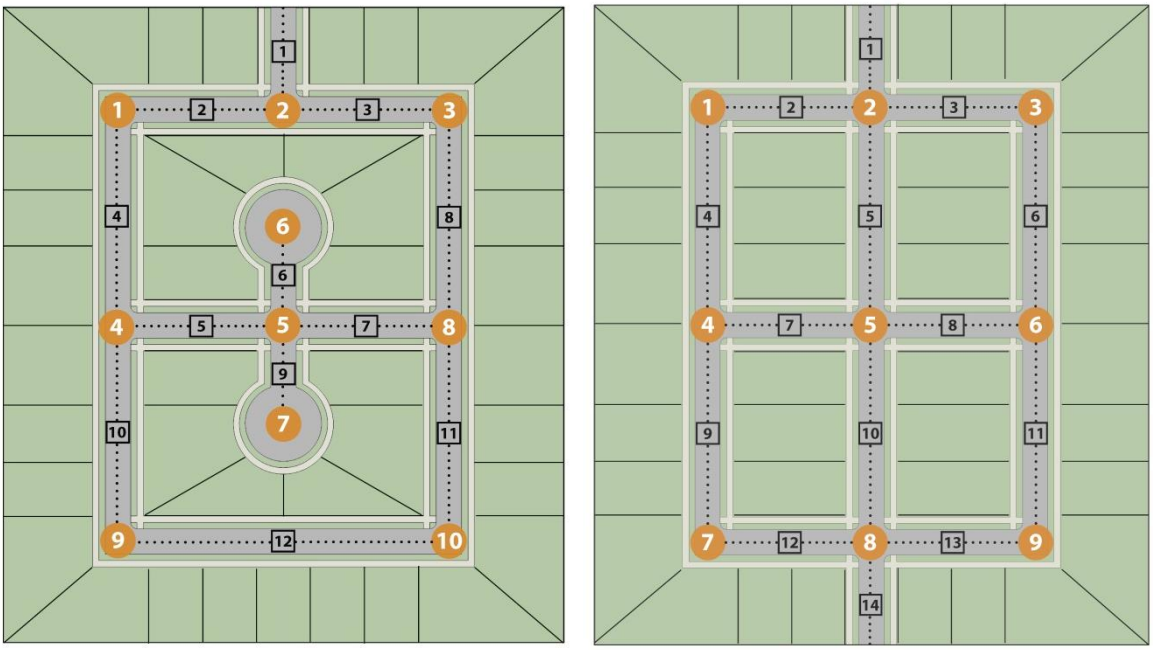
All new streets shall, at a minimum, meet the requirements set forth in the Subdivision Ordinance.

4.7.3.2 Street Connectivity for Residential Development

Residential developments that meet the connectivity ratio set forth in this subsection are eligible receive one (1) performance point. The minimum connectivity ratio to receive this performance point is 1.40 (see example below). The phrase “connectivity ratio” means the number of street links divided by the number of nodes or link ends, including cul-de-sac heads. A “link” means and refers to that portion of a street defined by a node at each end or at one (1) end. Approved stubs to adjacent property shall be considered links. However, alleys shall not be considered links. A “node” refers to the terminus of a street or the intersection of two (2) or more streets, except that intersections that use a roundabout shall not be counted as a node.

For purposes of this subsection, the street links and nodes within the collector or thoroughfare streets providing access to a proposed development shall not be considered in computing the connectivity ratio.

FIGURE 4.29: PERFORMANCE CONNECTIVITY RATIO



Example 1:
Development does not meet ratio
(12 links/10 nodes=1.20 ratio)

Example 2:
Same development modified to meet Ratio
(14 links/9 nodes=1.55 ratio)

4.7.4 Sidewalks

In addition to the sidewalk requirements of the Subdivision Ordinance the following standards shall apply:

4.7.4.1 Sidewalks for Residential Development

The installation of sidewalks on one side of all streets within a residential development shall receive one (1) performance point. The installation of sidewalks on both side of all streets within a residential development shall receive two (2) performance points. A minimum four (4) foot planting strip shall be located between the sidewalk and the street (back of curb). The planting strip shall be planted with grass. Sidewalks shall be installed in accordance with the requirements of the City of Morganton Engineering Standards and Specifications.

4.7.4.2 Sidewalks for Non-residential Development

The installation of sidewalk along all street frontage for a development is required within the Corridor and River District Overlays. A minimum six (6) foot planting strip shall be located between the sidewalk and the street (back of curb). The planting strip shall be planted with grass. Sidewalks shall be installed in accordance with the requirements of the City of Morganton Engineering Standards and Specifications.

4.7.5 Lighting Standards

4.7.5.1 Applicability

(A) Parking areas, sidewalks, and building entrances shall be lighted in order to contribute to the security of the property and to facilitate the safe passage of persons using these areas after dark. However, measures shall be provided to minimize light spillover onto adjacent properties and glare toward motor vehicle operators.

(B) The following types of lighting shall be exempt from the standards of this Section:

(1) Underwater lighting used for the illumination of swimming pools and fountains;

(2) The lighting of governmental flags;

(3) Lighting used for nighttime street and utility construction and repair shall not be subject to these lighting standards, but shall comply with the street lighting policy of the City;

(4) Lighting used for agricultural purposes or in conjunction with a bona fide farm operation, except that such lighting shall be designed and sited to prevent light trespass onto public streets or adjacent occupied lots;

(5) Emergency lighting, used by police, firefighting, or medical personnel, or at their direction for as long as the emergency exists; and

(6) Lighting attached to or associated with single-family residential structures customarily used for security and safety, provided that light does not cause light trespass or glare onto adjacent properties.

4.7.5.2 General Lighting Requirements

(A) Lighting design shall be coordinated throughout a development site.

(B) All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries and be directed in a way so as not to jeopardize traffic safety. All lights shall be full cut-off angled at 45 degrees or less to vertical.

(C) Lighting within public rights-of-way shall be installed in accordance with the City of Morganton Engineering Standards and Specifications and Duke Energy requirements.

4.7.5.3 Prohibited Lighting

(A) Flashing, colored or obtrusive lighting.

(B) Flood or spot lamps aimed higher than forty-five degrees above straight down (half-way between straight down and straight to the side).

(C) Non-shielded wall packs

(D) The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal.

4.7.5.4 Lighting Height

(A) No freestanding light poles shall exceed a maximum of 30 feet mounting height except that sports facility lighting shall not be limited but shall be the minimum necessary to provide proper illumination of the active play area and surrounding spectator areas.

(B) All light fixtures attached to building walls shall be placed at the minimum height necessary to achieve their purpose.

4.7.5.5 Lighting Maintenance

(A) All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as required.

(B) Anything other than routine servicing and same-type lamp replacement of any exterior lighting shall require City approval prior to installation.

4.7.5.6 Residential Development Lighting Performance Standards

Residential developments that have decorative pedestrian-scale lighting installed along all streets shall receive one performance point. Pedestrian-scale lighting shall be 10-15 feet tall.

4.7.6 Utility Standards

All utilities shall be installed underground and meet requirements of the City of Morganton Engineering Standards and Specifications.

4.8 Building Design Standards

4.8.1 Purpose

(A) The purpose of this Section is to ensure architectural compatibility and the establishment and preservation of architectural character throughout the City. Enumerated in the sections below are general standards all buildings, performance standards for residential buildings, standards for non-residential buildings, standards for buildings in the CBD zoning district.

(B) These standards are intended to ensure that the basic elements characteristic to Western North Carolina architecture are integrated into the non-residential buildings constructed in Morganton, so that the City can achieve its desired aesthetic and reinforce the City's character and sense of place.

4.8.2 Applicability

(A) The standards of this Section 4.8 shall apply as follows:

TABLE 4.27: BUILDING DESIGN STANDARDS BY BUILDING TYPE

Applicable Building Type	Applicable Section
Residential Buildings (performance standards and points for increased density)	4.8.5
Multi-family Residential Buildings	*4.8.5.1*
Single-family and Two-family Residential Buildings	*4.8.5.2*
Non-residential Buildings (Corridor Overlay in all districts, River District Overlay in all districts, in all LID and MID districts, and buildings in HID districts greater than 35 feet tall)	4.8.6
Central Business District Buildings (all buildings within the Central Business District zoning designation)	4.8.7

(B) The standards shall apply to new construction and expansions of greater than 20 percent of the gross floor area of the building within the building type categories shown in Subsection A above. If a nonconforming building is being expanded by greater than 20 percent, then the existing portion of the building shall comply with the following standards:

(1) The primary building material as permitted by Section 4.8.6.7 shall be continued over to 50 percent of the front façade of the existing building.

(2) A minimum of one (1) vertical articulation element listed in Section 4.8.6.4 (A) shall be incorporated into the front façade.

(3) A minimum of one (1) horizontal articulation element listed in Section 4.8.6.5 (A) shall be incorporated into the front façade.

(4) All unscreened mechanical or utility equipment shall be screened per Section 4.8.6.12.

(C) Non-residential building design standards shall not apply to existing residential structures that have a change-of-use to a non-residential use as permitted by this Ordinance.

FIGURE: 4.30: EXAMPLE OF BUILDING EXPANSION DESIGN COMPLIANCE

Existing Stucco Building ***Building with greater than 20% addition***

4.8.3 General Building Design Standards

(A) The primary entrance shall be architecturally and functionally designed on the front façade facing the primary public street, except that buildings interior to a development may be arranged to front a common courtyard, parking area, driveway, or private street. Building entrances shall be emphasized using massing, architectural features, and/or changes in the roofline.

(B) The front façade of the principal structure shall be parallel to the front lot line and street. Any side of a building that faces an arterial or collector street that is not screened from view by a berm or landscaping shall be treated as a front façade.

(C) Manufactured housing shall not be used as permanent structures except in the MH-O district.

(D) Modular buildings shall not be used as permanent structures unless such are placed on a permanent masonry foundation and meet all of the other design standards for buildings in the district in which they are located.

4.8.4 Neighborhood Conservation Overlay Residential Design Standards

(A) Wall Materials

(1) Exterior wall materials shall be wood, fiber cement board, brick, stone, vinyl, or similar materials.

(2) The front wall of such infill residences shall incorporate at least 25 percent of the primary material used on residences located within 200 feet.

(B) Roofs

(1) Roof materials shall be asphalt shingles, wood shakes, standing seam metal, slate, tile, or similar materials.

(2) The primary roof of a single-family residential building shall be pitched. Pitched roofs for one-story buildings shall have a slope of between 4:12 and 8:12. Pitched roofs for one-and-a-half (1 ½) or multiple story buildings shall have a slope of between 6:12 and 12:12. Secondary roofs may be flat and shall have a parapet wall with a decorative cap or cornice.

(3) Architectural elements such as height variations, gables, dormers, cupolas, towers, and other similar elements shall be incorporated into the roof design at a minimum of every 25 linear feet on the primary/front façade.

(4) Roofs shall be in scale with the building and shall have an overhang of six (6) inches or more to facilitate proper water run-off.

Height variation and dormers

Large expanse of roof without variation

More than 6-inch Gable Overhang

No Gable Overhang

(C) Garages

(1) Garages on infill residences shall incorporate similarly situated garages as residences located within 200 feet. For example, if all garages on houses residences within 200 are recessed from the front façade, then the garage on the infill house shall have a garage that is recessed from the front façade.

(2) Garages and carports shall be set back a minimum of 20 feet from a public street right-of-way.

(3) Attached garages for more than two (2) cars shall not face the primary street. Garages on corner lots may face the non-fronting street.

Side-loaded three-car garage

Front-loaded three-car garage

4.8.5 Residential Performance Building Design Standards

For each of the following standards that are met residential developments are eligible for one (1) performance point under the provisions of Section 4.3.1. For the purposes of this Section, building wall types are defined as follows:

(A) Primary/Front Façade

Any building wall plane which is oriented toward a street right-of-way and contains the primary building entrance.

FIGURE 4.31: PRIMARY/FRONT FACADE

(B) Secondary/Corner Side Facade

Building wall planes that do not contain the primary entrance to the building and face a secondary street right-of-way on a corner lot.

FIGURE 4.32: SECONDARY /CORNER SIDE FACADE

(C) Side Façade

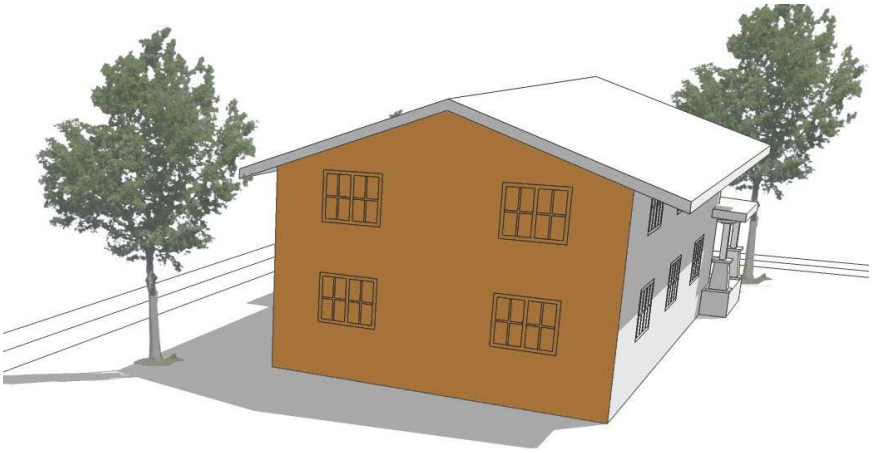
Building wall planes that do not face a street right-of-way and are generally perpendicular to the primary/front façade.

FIGURE 4.33: SIDE FACADE

(D) Rear Facade

Building wall planes that face the rear yard and generally parallel to the primary/front façade.

FIGURE 4.34: REAR FACADE



4.8.5.1 Multi-family Residential Performance Standards

(A) Wall Materials (one performance point)

(1) Exterior wall materials shall be wood, fiber cement board, brick, stone, vinyl, or similar materials.

(2) A minimum of two (2) materials shall be mixed on all facades, and a minimum of 50 percent of all facades shall be brick, stone, or a material similar in appearance and durability. Brick, stone or similar heavy materials shall be located below lighter materials such as wood or vinyl.

Mostly brick and stone with vinyl accents

All vinyl siding

(B) Roofs (one performance point)

(1) Roof materials shall be asphalt shingles, wood shakes, standing seam metal, slate, tile, or similar materials.

(2) Pitched roofs for one-story buildings shall have a slope of between 4:12 and 8:12. Pitched roofs for one-and-a-half (1 ½) or multiple story buildings shall have a slope of between 6:12 and 12:12.

(3) Flat roofs shall have a parapet wall with a decorative cap or cornice.

(4) Architectural elements such as height variations, gables, dormers, cupolas, towers, and other similar elements shall be incorporated into the roof design at a minimum of every 25 linear feet on all facades.

(5) Roofs shall be in scale with the building and shall have an overhang of six (6) inches or more to facilitate proper water run-off.

Proportional roof with variation and overhang

Shallow roof with no variation or side overhang

Flat roof with decorative parapet and variation

Flat roof with no decorative parapet or variation

(C) Garages (one performance point)

(1) Garages shall not be located on the primary/front façade.

(2) All garages shall be located on alleys or parking courtyards to the rear or interior of the building or building block.

Alley-loaded garages

Front-loaded garages

(D) Façade Articulation (one performance point)

(1) Façade articulation in the form of gables, projections, recesses, and/or porches or balconies of a minimum of three (3) feet in depth shall be located a minimum of every 25 feet along the all facades.

(2) Exterior stairs and open circulation corridors shall not be located on the front façade.

Façade articulation with recesses and projections

No façade articulation

Interior stairs and circulation corridors

Exterior stairs and circulation corridors

(E) Porches and Balconies (one performance point)

(1) Porches or balconies a minimum of eight (8) feet wide and four (4) feet deep shall be incorporated on the front façade.

With porches and balconies

No porches or balconies

(F) Windows (one performance point)

(1) A minimum of 25 percent of the primary façade and 20 percent of all secondary facades shall be composed of window area.

(2) Windows shall follow a regular rhythm and be aligned on and between floors.

Adequate windows with regular rhythm and alignment

Few windows with no regular rhythm and alignment

4.8.5.2 Single-family and Two-family Residential Performance Standards

(A) Wall Materials (one performance point)

(1) Exterior wall materials shall be wood, fiber cement board, brick, stone, vinyl, or similar materials.

(2) A minimum of two (2) materials shall be mixed on the front and corner side facades, and a minimum of 50 percent of the front and corner side facades shall be brick, stone, or a material similar in appearance and durability. Brick, stone or similar heavy materials shall be located below lighter materials such as wood or vinyl.

(3) The front wall shall incorporate at least 25 percent of the primary material used on the side walls of the building.

Fifty percent stone

All vinyl siding

(B) Roofs (one performance point)

(1) Roof materials shall be asphalt shingles, wood shakes, standing seam metal, slate, tile, or similar materials.

(2) The primary roof of a single-family residential building shall be pitched. Pitched roofs for one-story buildings shall have a slope of between 4:12 and 8:12. Pitched roofs for one-and-a-half (1 ½) or multiple story buildings shall have a slope of between 6:12 and 12:12. Secondary roofs may be flat and shall have a parapet wall with a decorative cap or cornice.

(3) Architectural elements such as height variations, gables, dormers, cupolas, towers, and other similar elements shall be incorporated into the roof design at a minimum of every 25 linear feet on the primary/front façade.

(4) Roofs shall be in scale with the building and shall have an overhang of six (6) inches or more to facilitate proper water run-off.

Height variation and dormers

Large expanse of roof without variation

More than 6-inch Gable Overhang

No Gable Overhang

(C) Garages (one performance point)

(1) Front-loaded garages shall not have visual prominence on the front façade and shall not compose more than 40 percent of the total length of the front elevation.

(2) Front-loaded garages and carports shall be flush with or recessed behind the front wall plane that contains the primary entrance to the dwelling facing the primary street frontage.

(3) Garages and carports shall be set back a minimum of 20 feet from a public street right-of-way.

(4) Attached garages for more than two (2) cars shall not face the primary street. Garages on corner lots may face the non-fronting street.

(5) The maximum width for individual garage door shall be 12 feet.

Recessed garage with individual doors

Prominent garage with door exceeding 12 feet

Side-loaded three-car Garage

Front-loaded three-car Garage with door exceeding 12 feet

(D) Façade Articulation (one performance point)

(1) Façade articulation in the form of gables, projections, recesses, and/or porches of a minimum of three (3) feet in depth shall be located a minimum of every 25 feet along the front and corner side façades.

(2) Two-family (duplex) residences shall be designed in such a way that the primary entrances are not both on the same plane of the primary/front façade.

(3) Two-family residences on corner lots shall be designed with one unit's primary entrance facing one fronting street and the other units facing the other fronting street.

Wall articulation with recesses and projections

No wall articulation

Entrances on different plane of facade

Entrances on same plane of facade

(E) Porches (one performance point)

(1) Houses under 30 feet wide shall incorporate a covered porch on the primary/front facade that is a minimum of 10 feet wide and five (5) feet deep.

(2) Houses greater than 30 feet wide shall incorporate a porch on the front façade that is a minimum of 40 percent of the length of the primary/front façade and a minimum of five (5) feet deep.

House with porch

House without porch

(F) Windows (one performance point)

(1) A minimum of 20 percent of the primary/front façade and 15 percent of all other facades shall be composed of window area.

(2) Windows shall follow a regular rhythm and be aligned on and between floors.

Adequate windows with regular rhythm and alignment

Few windows with no regular rhythm or alignment

(G) Foundations (one performance point)

The foundation of the dwelling shall be clad in brick or stone, and the first floor shall be elevated a minimum of 24 inches from the finished grade.

Elevated brick foundation

At-grade foundation

4.8.6 Non-Residential Building Design Standards

The requirements of this Section shall apply to the non-residential buildings in the following areas:

(A) Non-residential buildings located within the Corridor Overlay in all zoning districts;

(B) Non-residential buildings located within the River District Overlay in all zoning districts;

(C) Non-residential buildings located within the LID and MID zoning districts as indicated in Section 3.4, but shall not apply to existing residential structures that have a change-of-use to a non-residential use as permitted by this Ordinance; and

(D) Non-residential buildings within any HID district that exceed 35 feet in height.

(E) For all other areas these standards shall serve as guidelines and are strongly encouraged.

4.8.6.1 Architectural Compatibility and Cohesiveness

(A) Buildings shall be designed so that each side of the building is architecturally compatible with each other side of the building, unless otherwise exempted by a specific provision of this Section.

(B) Where more than one building is being constructed as part of a larger common development plan, each building in that development, including pad sites and out parcels, buildings shall be designed in a manner that fosters a cohesive architectural aesthetic throughout the development. Architectural compatibility within a development may include the use of the following methods:

(1) Similar building materials

(2) Similarly colored building materials

(3) Proportional quantities of building materials on building facades

(4) Similar roof forms

(5) Similar architectural detailing

(C) Additions to existing buildings shall match the materials of the building. If the existing building is constructed of non-conforming materials and the addition is greater than 20 percent of the gross floor area, then the addition shall incorporate a permitted primary material into the design of the addition and the front façade.

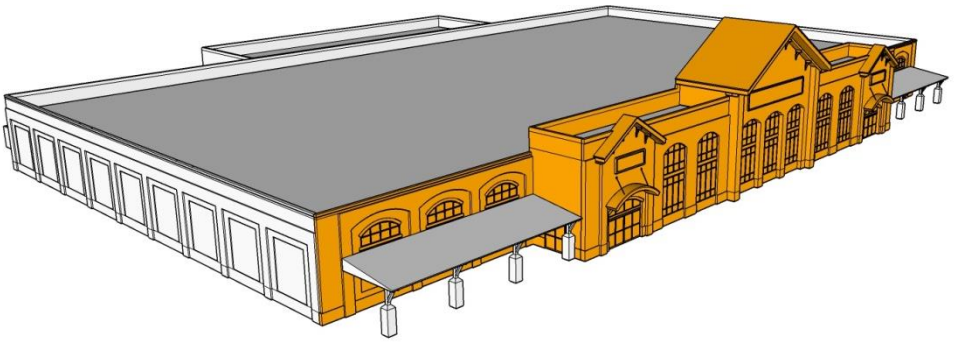
4.8.6.2 Building Wall Types

Different design standards apply to different types of building walls. For the purposes of this Section, building walls shall be divided into the following categories:

(A) Primary Building Façade / Primary Building Wall

Any building wall plane which is oriented toward a public street or internal access drive, or which contains the primary building entrance (single tenant structures) or entrances (multi-tenant structures). Buildings on corners have more than one Primary Building Façade/Primary Building Wall. Primary Building Walls are always active building walls.

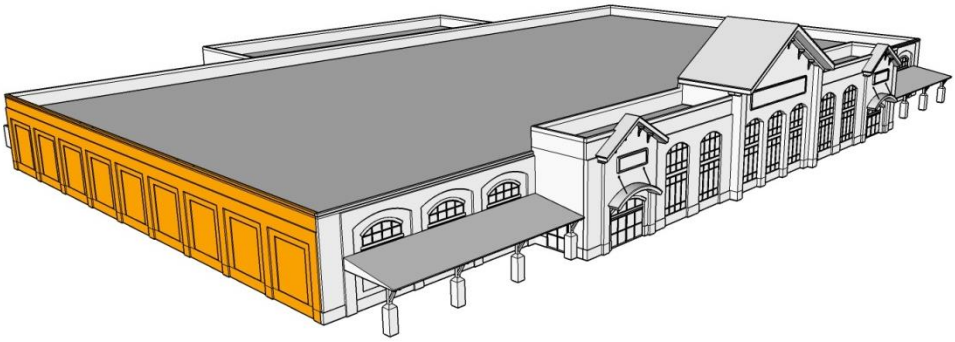
FIGURE 4.35: PRIMARY BUILDING WALL



(B) Secondary Building Wall

All building wall planes that are not defined as a Primary Façade / Primary Building Wall or as a Utility / Service Building Wall are Secondary Building Walls. Secondary building walls may be active or inactive depending on location and access to the building.

FIGURE 4.36: SECONDARY BUILDING WALL



(C) Active Building Wall

Any building wall plane, or portion of a wall plane, whether along a primary or secondary building wall, which:

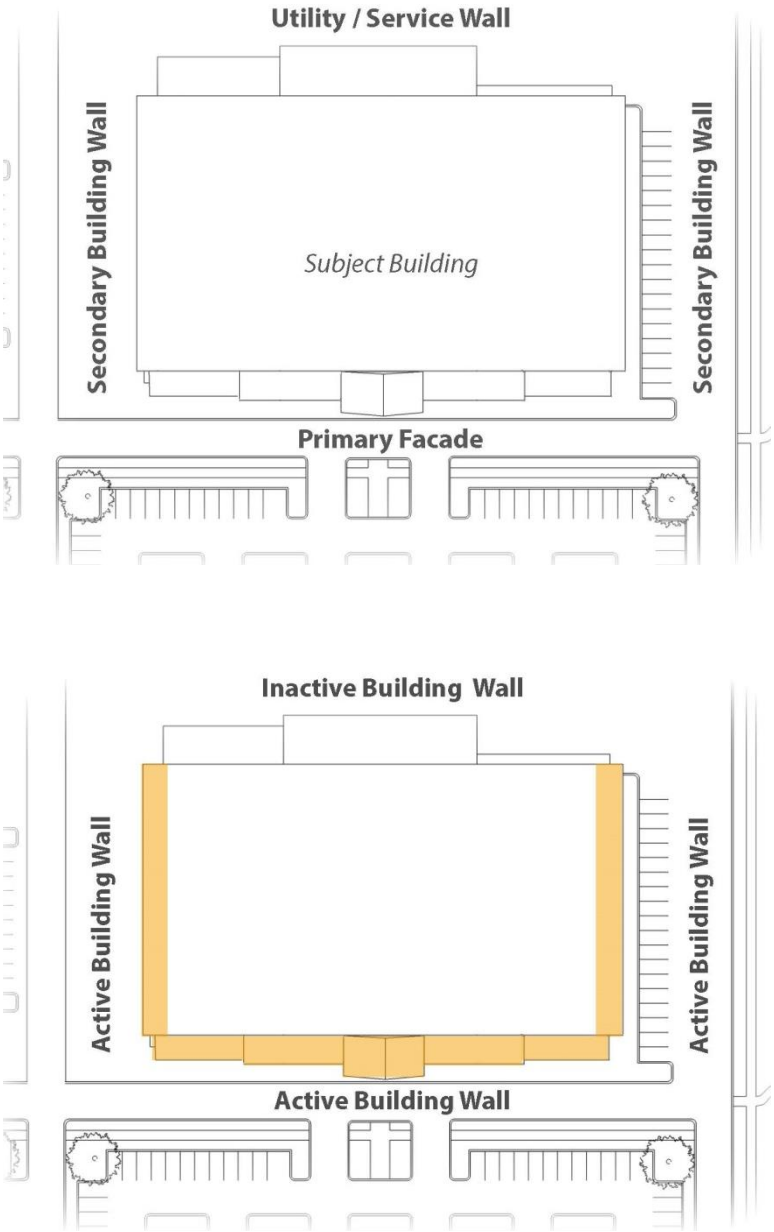
(1) Contains a customer entrance;

(2) Is oriented toward a public street or internal access drive;

(3) Is adjacent to a pedestrian walkway; or

(4) Is adjacent to a customer parking area

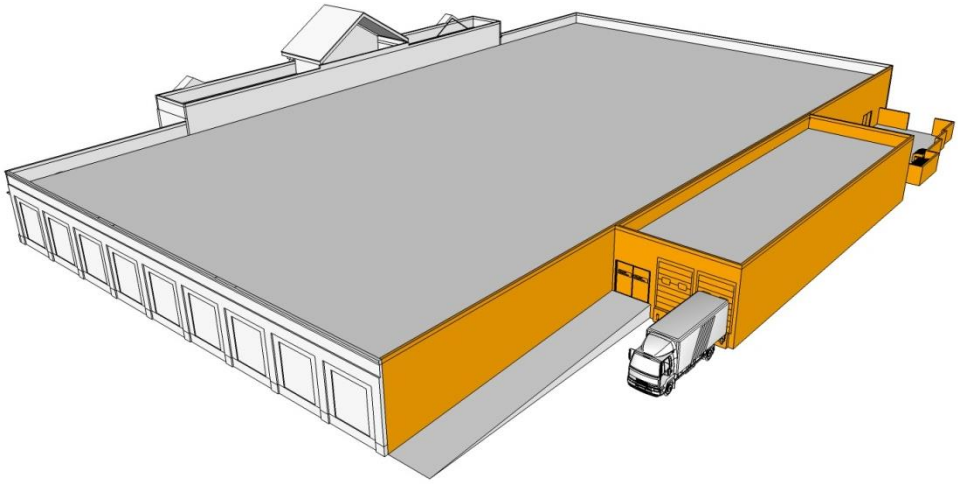
FIGURE 4.37: BUILDING WALL TYPES



(D) Utility/Service Building Walls

The building wall plane, or portion thereof, that contains utility and service areas.

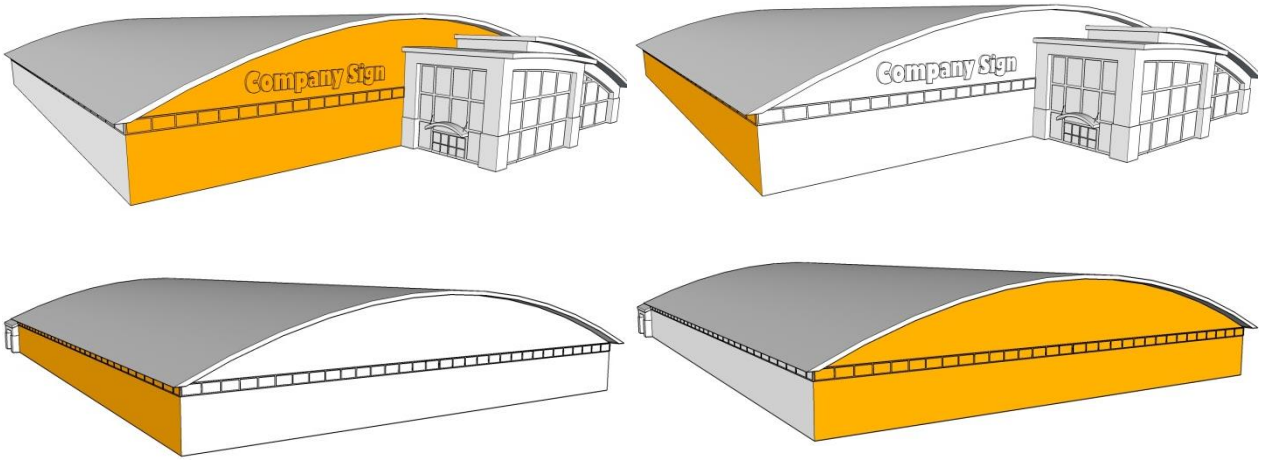
FIGURE 4.38: UTILITY/SERVICE WALL



(E) Industrial Building Walls

Each portion of a wall plane of an industrial, warehousing or similarly used building which is not adjacent to interior space used for offices, customer service, retail areas, product display areas or similar nonindustrial spaces.

FIGURE 4.39: INDUSTRIAL BUILDING WALLS



Note: Walls of the projecting portion of the building (which contain offices and showroom areas) are not classified as Industrial Building Walls.

4.8.6.3 Building Modulation

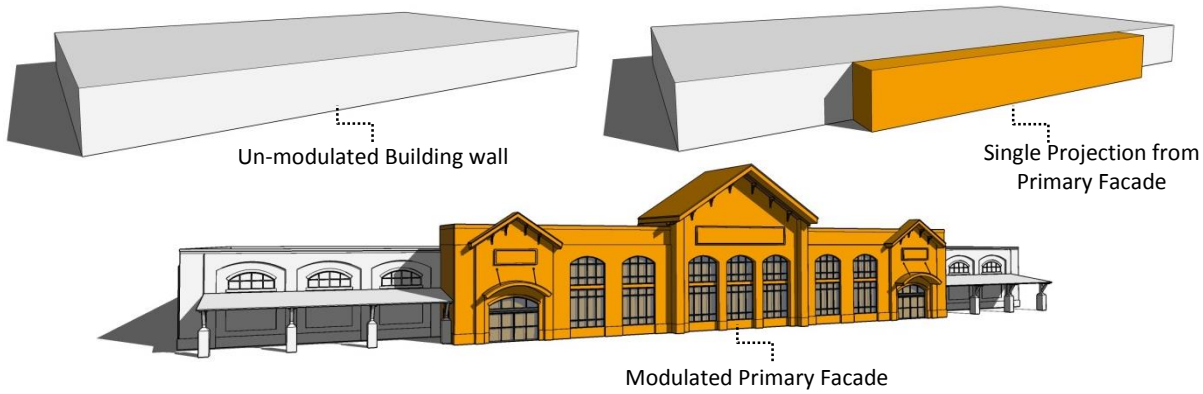
Building modulation is the varying of the footprint of a building by projecting or recessing portions of the façade from the base plane of the building wall. The use of a modulated façade helps to define the most important portion(s) of a building (such as customer entrances), reduces monotony along building walls and helps to distinguish adjacent buildings from each other by encouraging distinctive designs. The following building modulation standards apply to all non-residential buildings of greater than 50 linear feet on the primary façade:

(A) Primary building facades shall be modulated through the use of projections or recessions of the building wall from the base wall plane.

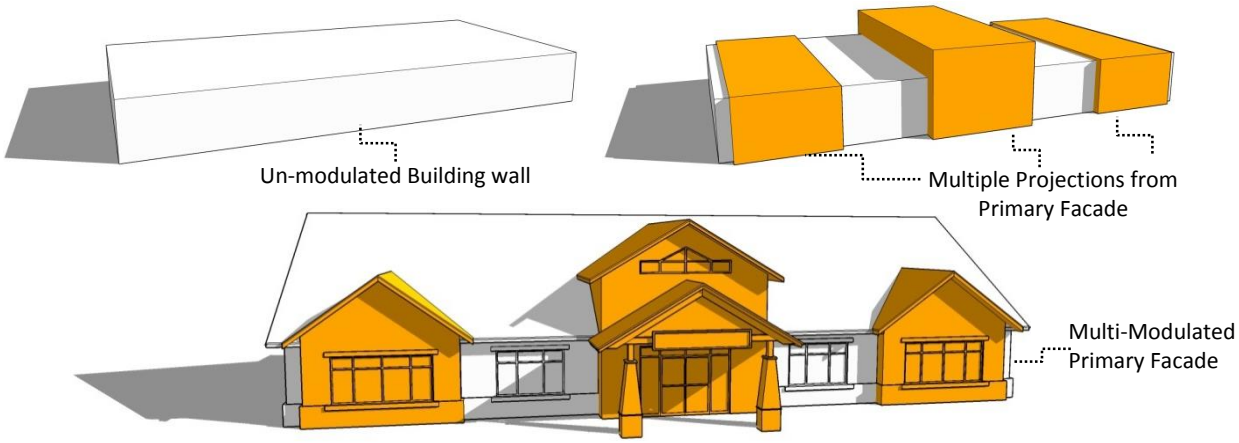
(B) Projections or recessions used to meet this requirement shall project or recede from the base wall plane by a minimum of one (1) foot or two (2) percent of the length of the façade, whichever is greater.

(C) The combined length of the modulating feature(s) shall be a minimum of 35 percent of the width of the base wall plane.

FIGURE 4.40: BUILDING MODULATION



The illustrations above demonstrate compliance with the building modulation standards through the use of a single projection from the base wall plane.



The illustrations above demonstrate compliance with the building modulation standards through the use of multiple projections from the base wall plane.

4.8.6.4 Vertical Articulation

Vertical articulation is used to give emphasis to the height of a building and to provide relief along the vertical wall plane. Appropriate vertical articulation techniques vary based on the size and height of a building, as well as its architectural style. Vertical articulation shall be provided on each vertical building wall plane as required below. Utility/Service and Industrial building wall types shall be exempt from these standards.

(A) Buildings shall be vertically articulated by using a minimum of three (3) of the techniques listed below:

(1) Using visually "heavy" building materials, such as stone, on lower surfaces when a "lighter" material is used on higher surfaces. Using larger or more coarsely faced building materials on lower surfaces and smaller or more finely textured materials on higher surfaces

(2) Using different colors of materials along the vertical wall plane, with darker colors used on lower surfaces and lighter colors used on higher surfaces

(3) Projecting the base of the building outward from the façade to create an architecturally distinct ledge along the base

(4) Recessing upper stories on multi-story buildings

(5) On multi-story buildings, using features that project perpendicularly to the building wall to divide the base of the building from upper stories

(6) Using a pitched roof form over the entire structure

(7) Including minor pitched roof forms on buildings with parapet walls

(8) Using stepped parapet walls

(9) Providing towers or similar features that extend vertically above the top of the building wall

(10) Varying the height of different portions of a building

(11) Using tall windows, particularly when coupled with an arched frame at the top

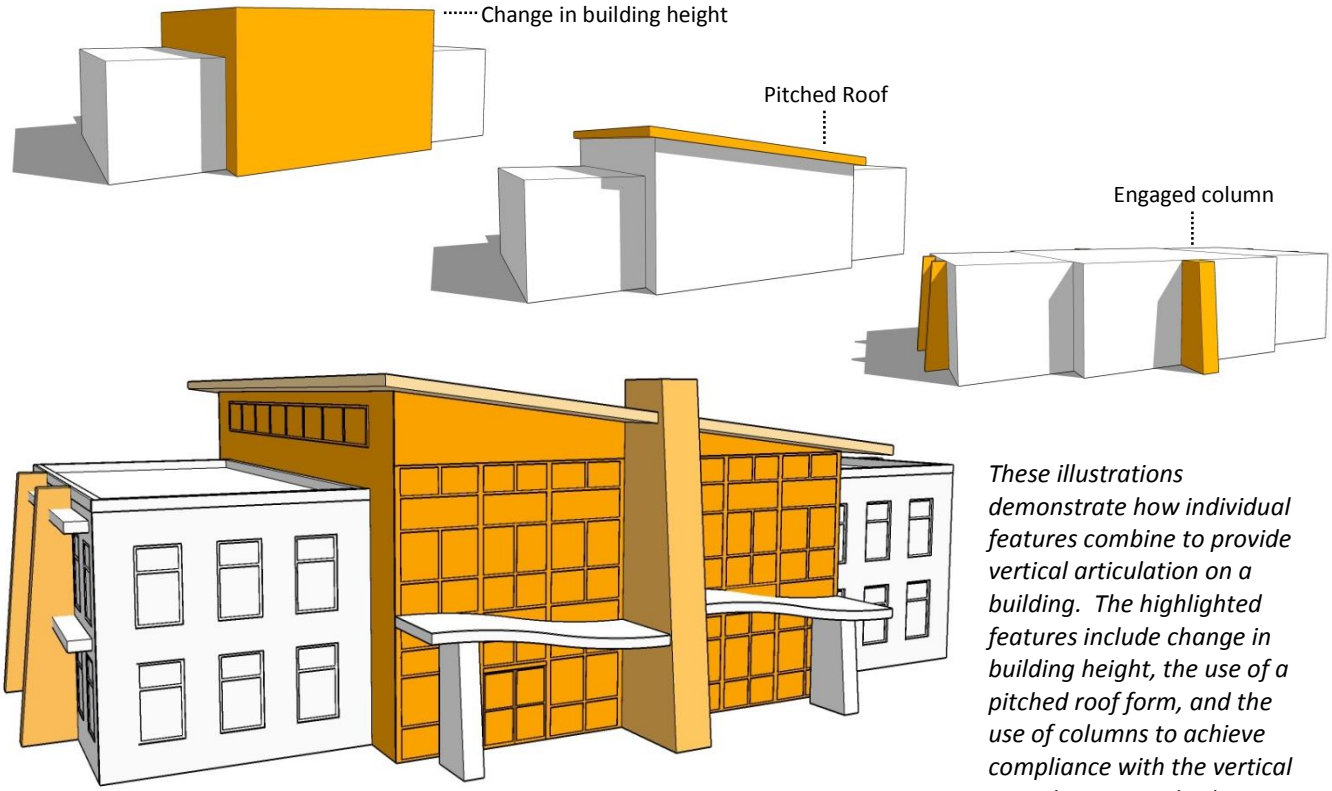
(12) Using distinct masonry patterns or inlays that extend vertically along the building wall

(13) Using pilasters or engaged columns that extend vertically along the building wall

(B) Buildings that are three (3) or more stories or more than 35 feet above grade shall be designed with a visually distinct base. The base shall extend a minimum of 10 percent and maximum of 20 percent of the height of the vertical wall plane from grade.

FIGURE 4.41: VERTICAL ARTICULATION

The illustrations above demonstrate proper division of a multi-story building into vertically distinct portions of the vertical wall plane, including base, body, and top sections.



These illustrations demonstrate how individual features combine to provide vertical articulation on a building. The highlighted features include change in building height, the use of a pitched roof form, and the use of columns to achieve compliance with the vertical articulation standards.

4.8.6.5 Horizontal Articulation

Horizontal articulation is used to provide visual interest along the horizontal wall plane and to define the human scale of a building. Appropriate horizontal articulation techniques vary based on the architectural style of a building, as well as its intended use. Utility/Service and Industrial building wall types shall be exempt from these standards.

(A) Ground floor building walls shall be articulated in a manner that provides visual interest and emphasizes the human scale by using one (1) or more of the below referenced techniques, or by an equally effective method that achieves the stated goal:

(1) Awnings

(2) Trellises

(3) Arcades

(4) Recessed openings

(5) Arbors/Pergolas

(6) Porticos

(7) Decorative masonry patterns or inlays

(8) Decorative metalwork

Awnings

Trellises

Recessed openings and Decorative metalwork

Portico and Pergola

Arcade and Decorative Masonry Patterns

(B) A minimum of 75 percent of the width of the horizontal wall plane of the primary façade(s) shall contain articulating features (see Figure 4.42). More than one feature type may be used to meet this requirement.

(C) A minimum of 50 percent of the width of the horizontal wall plane of secondary building walls shall contain articulating features (see Figure 4.42). More than one feature type may be used to meet this requirement.

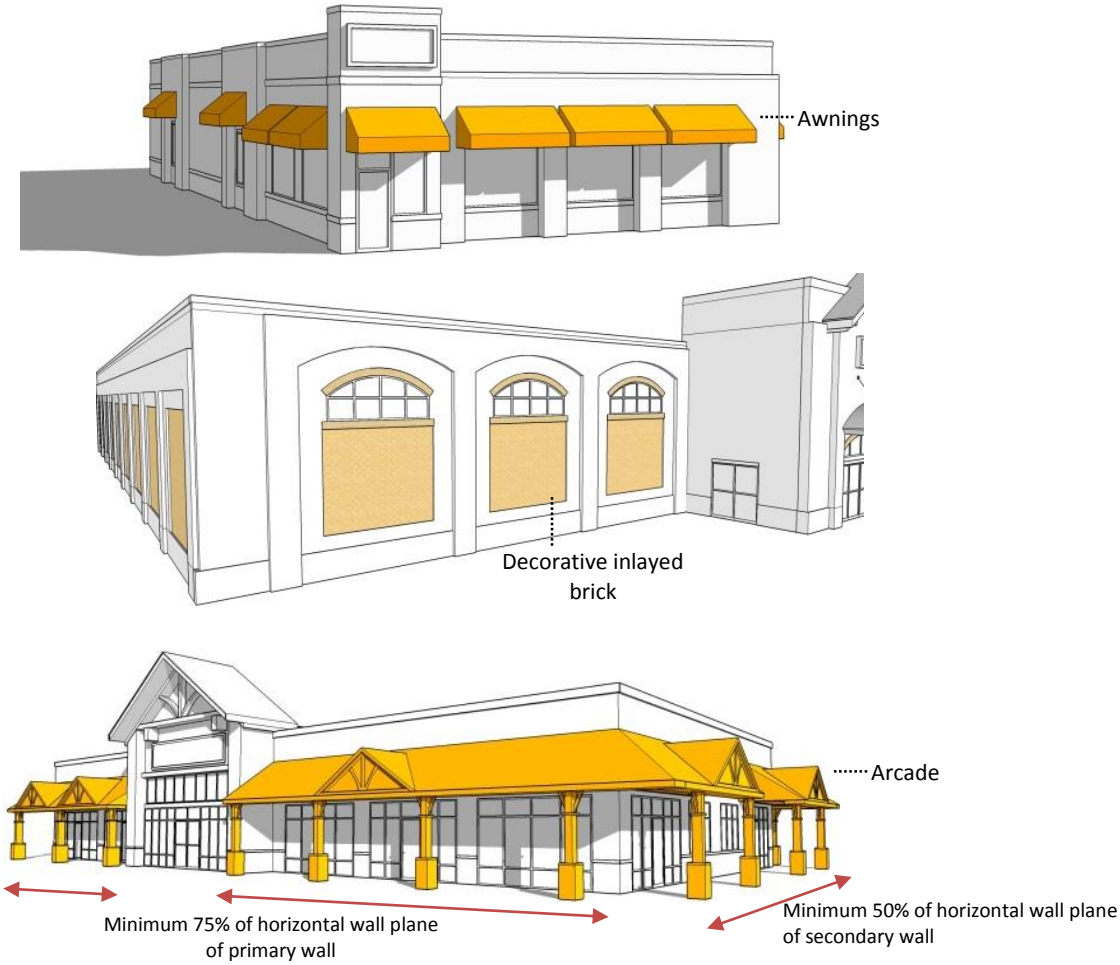
(D) Features used to satisfy these requirements shall not be separated by a gap wider than 10 feet between the outer edges of each individual feature.

(E) Features used to satisfy this requirement shall be appropriate to the context of the wall on which they are placed. An example of an inappropriate use of an architectural feature would be to place an awning in a location that does not cover a pedestrian walkway or window.

Awnings over windows

Awnings not over windows

FIGURE 4.42: HORIZONTAL ARTICULATION



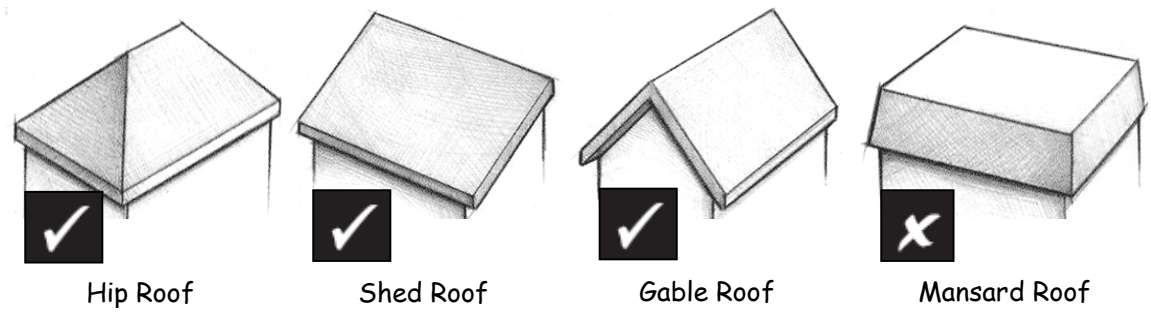
These illustrations demonstrate how individual features provide horizontal articulation on buildings. The highlighted features include awnings (top), decorative inlayed brick (middle), and arcade (bottom). The bottom diagram also illustrates a building that has at least 75 percent of the primary façade and 50 percent of the secondary façade with horizontal articulating features.

4.8.6.6 Roof Form

A roof is an integral structural component of the building, but it is also an opportunity to design a "roofscape" that is reflective of the foothills region and as such should be treated as an architectural elevation. The roofscape should be varied and reinforce the rhythm and scale of the street facades as well as reflect the variation in the area's natural topography. The following requirements shall apply to roofs:

(A) Pitched roofs shall be simple hip, shed or gable forms. Mansard roofs are prohibited.

FIGURE 4.43: ROOF TYPES



(B) Pitched roof forms shall utilize eaves which overhang the building wall a minimum of 12 inches.

(C) A pitched primary roof form shall have a minimum pitch of 6 inches of vertical rise to each 12 inches of horizontal run (6:12) and a maximum pitch of 12 inches of vertical rise to each 12 inches of horizontal run (12:12). Secondary roof forms shall have a minimum pitch of 4 inches of vertical rise to each 12 inches of horizontal run (4:12).

(D) Roof pitches of less than 2:12 and flat roofs shall incorporate a parapet wall on all sides of the building.

(E) Parapet walls exceeding 100 feet in length along the primary façade(s) of a building shall include at least one pitched roof element. Such minor pitched roof element(s) shall occupy a minimum of 20 percent of the width of the building façade.

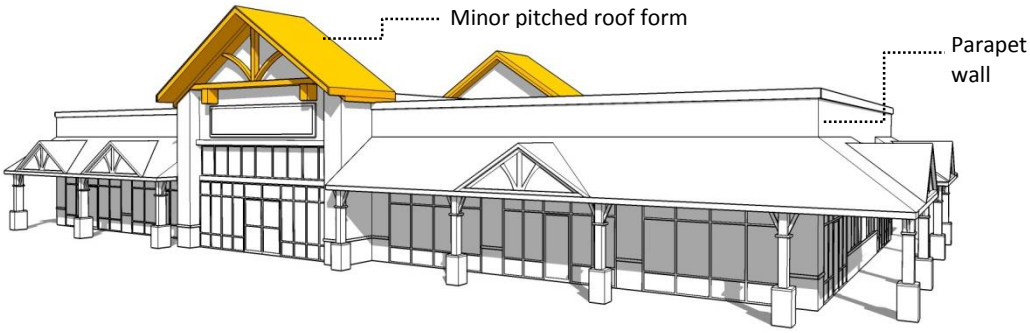
(F) Parapet walls on primary facades shall contain at least one (1) change in height of at least one (1) foot a minimum of every 25 feet, through the use of a stepped wall or the inclusion of a minor pitched roof form. Height changes shall align with the modulation of the building wall.

(G) Parapet walls may not exceed 10 feet in height at any point along the wall.

(H) An articulated cornice shall be provided along those portions of a parapet wall that are located above a section of a building that projects from the base wall plane. Cornices shall continue around all sides of a parapet wall on which they are required, and may only terminate at an interior building corner or continue at least eight (8) feet around an exterior building corner.

FIGURE 4.44: ROOF FORM

The illustrations above demonstrate proper use of a pitched roof on a modulated building wall. As the illustration shows, the pitched roof form is enhanced with minor pitched roof elements and changes in height that correspond to changes in in the base wall plane.



The illustration above demonstrates the proper inclusion of minor pitched roof forms on a building with a parapet wall.

Continuous parapet with height changes

Non-continuous false front parapet without height changes

4.8.6.7 Materials and Color

Exterior materials and colors shall meet the standards outlined below. Utility/Service and Industrial building wall types shall be exempt from these standards.

(A) Primary and Secondary Walls

(1) Brick, stone or other material similar in appearance and durability shall be used as cladding over a minimum of 50 percent of the surface area of each primary and secondary building wall. Materials that are fabricated to have the same appearance as a primary building material shall be permitted, unless otherwise noted. All other materials not expressly permitted are prohibited.

(2) The following accent materials may be used as cladding on up to 50 percent of the surface area of the primary and secondary building walls:

(a) Wood clapboard or fiber cement board horizontal or vertical siding
(b) Vinyl siding horizontal or vertical siding
(c) Architectural grade metal
(d) Stucco or Exterior insulation and finishing systems (EIFS)
(e) Ceramic Tile / Terracotta
(f) Split-faced block

Brick facade

Painted concrete block and metal facades

(3) Windows and other glazed areas shall be excluded from the calculation of the surface area of a building wall for the purpose of the material proportion standards.

(4) Primary and secondary facade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. The use of high-intensity, fluorescent, or neon colors is not permitted.

Muted neutral colors

High intensity colors

(5) In addition to the requirements listed above the following additional material standards shall apply in the River District Overlay:

(a) Stone or similar material shall be used to clad a minimum of 20 percent of the surface area of each primary building façade.

(b) All masonry work shall use a laying method that gives a dry-stack or mortared appearance.

Dry-stack examples

Mortared examples

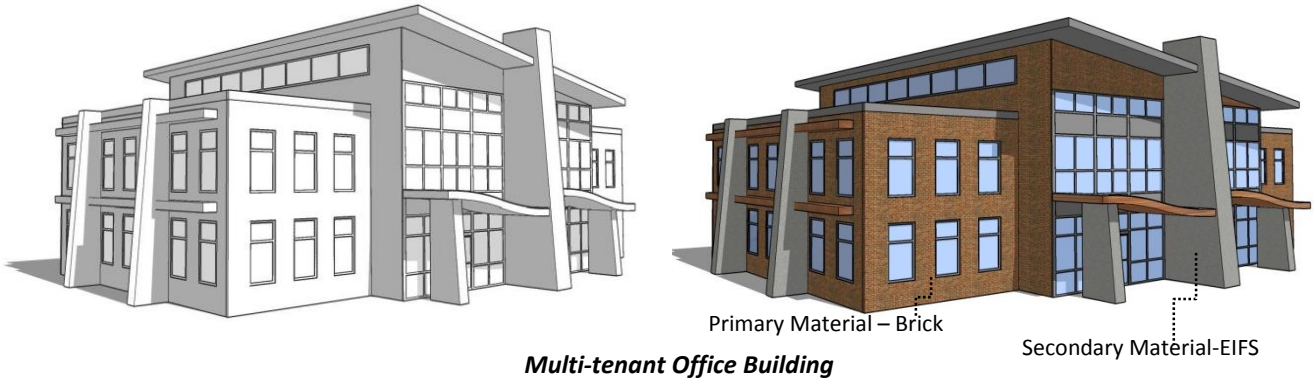
(c) Brick and stone cladding materials may not be painted or otherwise altered in color from their natural appearance.

(d) Exposed wooden structural members shall be stained a natural wood color.

(B) Utility / Service Walls

Utility / Service walls on buildings may use standard concrete masonry units (concrete block) as a cladding material, provided that the block is either integrally colored or painted to match the color of the permitted material that is used to clad the greatest proportion of the surface area of the primary and secondary building walls.

FIGURE 4.45: MATERIALS

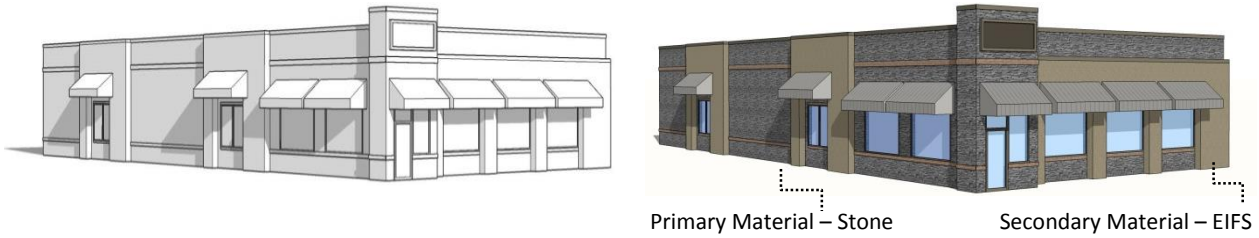


Multi-tenant Office Building

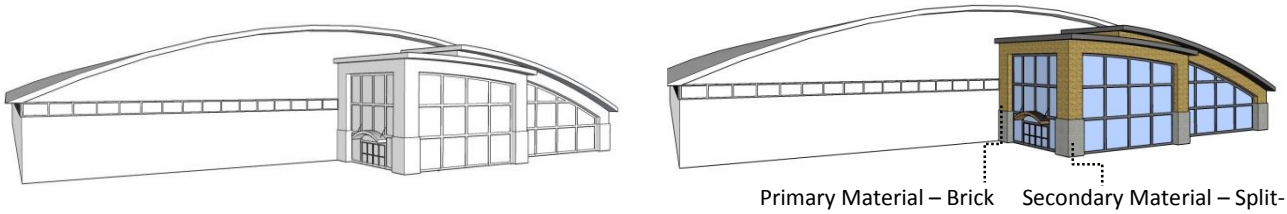
Single Tenant Office Building

Multi-tenant Retail Building

Hotel



Fast-food restaurant



Office portion of industrial building

The illustrations above demonstrate the application of permitted primary and accent cladding materials to the exterior of different building types.

4.8.6.8 Windows and Glazing

The use of glazed (glass) surface areas on a building wall enhances the aesthetic character of the building by adding a transparent contrast to the other cladding materials used on the wall. Transparent surfaces also increase the "activity" of a building wall by making interior spaces visible to the outside, particularly in the vicinity of customer entrances and along building walls that are adjacent to pedestrian walkways. Methods of achieving transparency can include the use of glass doors, windows and curtain walls. The following glazing standards shall be met. Industrial and Utility/Service building walls are exempt from the minimum glazing requirements.

(A) At least 30 percent of the length of the first floor shall contain glazed area. For buildings located on a corner, the first floor secondary street façade shall be at least 15 percent windows.

(B) Multi-story buildings shall be designed with a minimum glazed area of 25 percent of the surface area of each building wall above the first story. Each upper story building wall shall contain a roughly proportional amount of glazed area as each other story above the ground floor. Windows shall be aligned vertically and horizontally between floors follow the same window rhythm.

(C) Glazing shall not extend over more than 70 percent of a primary building wall. Glazing may not extend over more that 50 percent of any building wall other than a primary building wall.

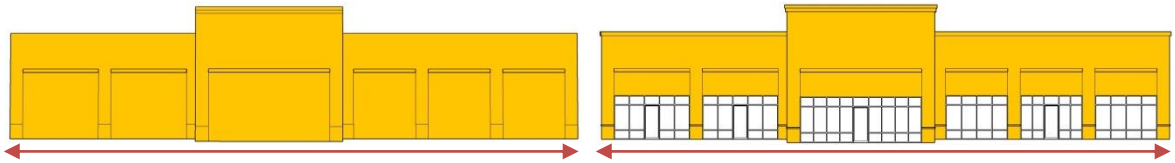
(D) Glazed areas shall not be separated by a distance of greater than 20 feet on any portion of a building wall on which glazing is required.

(E) Opaque or mirrorized glass is prohibited. Decorative stained glass windows are permitted. Glass block that obscures interior visibility may not be used to satisfy the minimum glazing requirement. False windows may not be used to satisfy the minimum glazing requirement.

(F) Windows shall be proportioned so that they emphasize the vertical rather than horizontal dimension of the opening. This may be achieved by either proportioning the window opening so that its height is greater than its width, or, when a horizontal window opening is used, using internal framing that divides the window into vertically proportioned elements. Transom and accent windows, occupying no more than five (5) percent of the building wall on which they are located, may be horizontally oriented.

(G) Windows shall be inset from the surrounding wall cladding material by a minimum of two (2) inches.

FIGURE 4.46: WINDOWS AND GLAZING

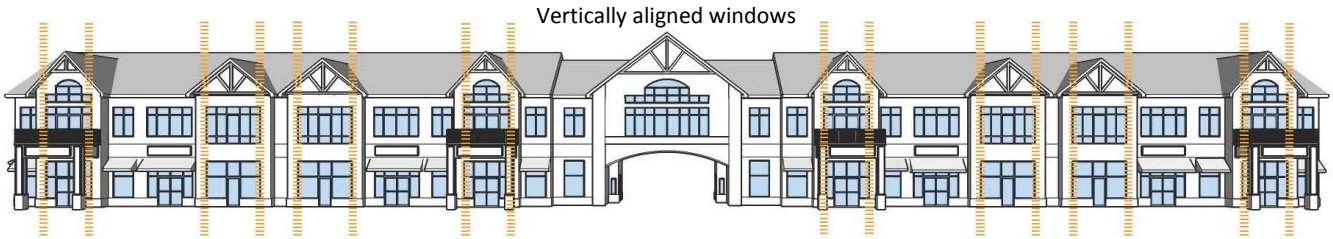


The illustration above highlights those areas of the building that are counted toward the minimum glazing standards.

Vertically proportioned windows

The illustration above highlights the effective use of vertically proportioned windows. The arched tops emphasize the height of the window and articulate the vertical dimension of the building wall.

Vertically aligned windows



The illustration above demonstrates the vertical alignment of upper and lower story windows on a multi-story building. This repetitive vertical alignment helps to articulate the vertical wall planes.

Adequate window area

Windows covered for interior display

4.8.6.9 Building Entrances

(A) The primary entrance(s) to each building or tenant space shall be oriented toward the adjacent public street, or, when located in the interior of a larger development, toward an internal access drive.

(B) Buildings with a gross floor area of more than 50,000 square feet shall provide a minimum of two (2) customer entrances on the primary façade which are separated by a minimum distance of 100 linear feet from their outer edges.

(C) Primary customer entrances shall be clearly defined by distinct architectural features. Each primary entrance shall be defined by a minimum of two (2) of the following features:

(1) Awnings or porticos

(2) Recesses/projections of the building wall

(3) Arcades

(4) Raised corniced parapets over the entry

(5) Pitched roof forms

(6) Arched architectural features

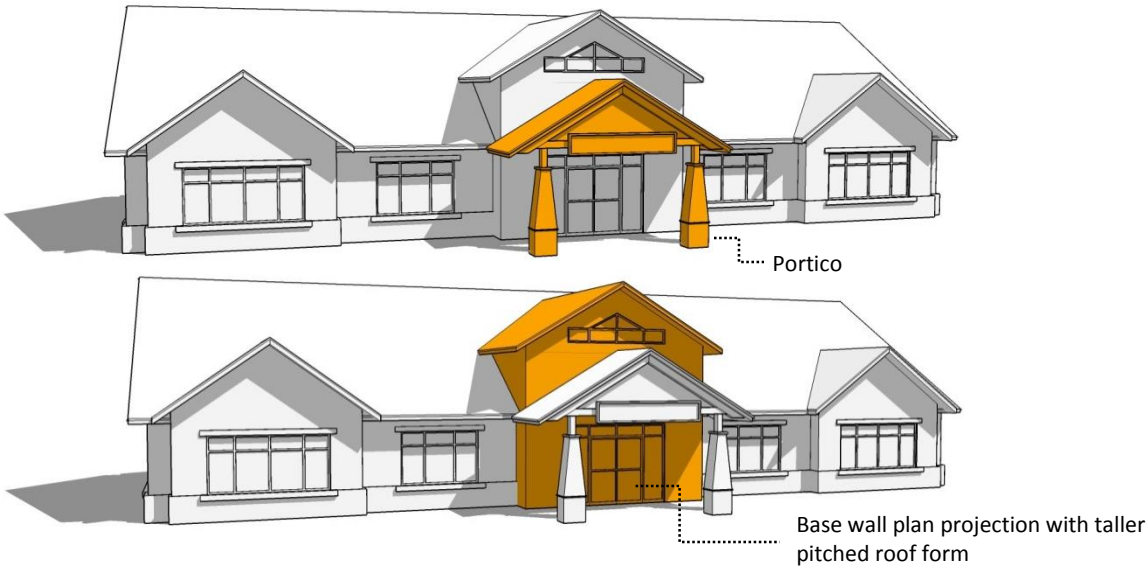
(7) Display windows

(8) The use of cladding materials around the entrance that are visually distinct from other materials on the building wall.

(9) Masonry, tile, metal or glass inlays around the entrance.

(10) Columns or similar vertical features

FIGURE 4.47: BUILDING ENTRANCES



The illustrations above highlight the elements that emphasize the primary entrance into the building. These elements include a portico, projection from the base wall plane, and projecting gable roof forms.

The illustrations above demonstrate the emphasis of building entries for the following building types: multi-tenant retail building; large scale, single-tenant retail building; and restaurant.

4.8.6.10 Awnings

(A) Awning material shall be canvas or architectural grade (non-corrugated) metal with a matte, non-reflective finish.

(B) Awnings shall have a minimum of 2:12 slope and shall not be flat.

(C) Awnings shall not be backlit or outlined with neon, LED or other lighting.

(D) Awnings shall be placed at the top of window or doorway openings, and shall not extend beyond such openings.

(E) No awning shall extend more than the width of the sidewalk or 10 feet, whichever is less and shall maintain a clear height of at least eight (8) feet above grade.

(F) Awnings shall be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case, shall any awning extend beyond the street curb or interfere with street trees or public utilities.

FIGURE 4.48: AWNINGS

The illustrations above demonstrate the improper use (top) and proper use (bottom) of awnings. The awnings on the bottom illustration only cover the window and door openings.

Canvas awnings over window openings

Backlit vinyl awning covering length of building

4.8.6.11 Orientation of Certain Features

(A) Buildings shall be oriented in a manner that drive-through windows, menu/ordering areas and automobile service bay doors are not directly visible from the primary fronting street when viewed at a point in the street that is directly perpendicular to the center of the primary façade.

(B) Building walls that contain utility and service areas shall be oriented so that they are not visible from adjacent public streets or internal access drives (except dedicated service drives).

No drive-through window or ordering station on front facade

Drive-through ordering station on front facade

Service bays on secondary building wall

Service bays on primary building wall

4.8.6.12 Mechanical and Utility Equipment

(A) All building mounted mechanical and utility equipment shall be located on the utility/service façade.

(B) Ground level building mounted mechanical and utility equipment shall be screened by walls that are composed of the same cladding material that is used on the building wall adjacent to their mounting location.

(C) Mechanical and utility equipment which extends along the vertical wall plane above a height of six (6) feet from grade shall be painted to match the color of the primary material on that building wall.

(D) All rooftop mounted mechanical equipment shall be screened or located in a manner that it is not visible from any point along an active building wall.

Screened ground-level equipment

Unscreened ground-level equipment

Screened roof-top equipment

Unscreened roof-top equipment

4.8.6.13 Accessory Building Design

(A) The exterior materials of non-residential accessory buildings shall substantially match the primary and/or secondary materials of the principal structure and surrounding buildings.

(B) Accessory structures shall be located in the rear yard and shall not exceed 15 feet or the height of the principal structure, whichever is less.

Materials match principal structure

Materials do not match principal structure

4.8.7 Central Business District (CBD) Buildings

4.8.7.1 Applicability

The standards of Section apply to all buildings in the CBD zoning district. The standards are intended to maintain Downtown Morganton's historic character and ensure that infill development is compatible. For the purposes of this Section, building wall types are defined as follows:

(A) Primary/Front Façade

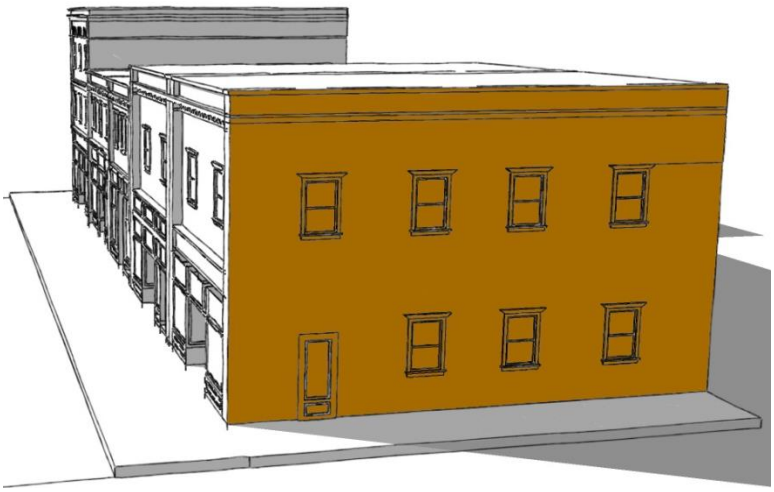
Any building wall plane which is oriented toward a street right-of-way and contains the primary building entrance.

FIGURE 4.49: PRIMARY/FRONT FACADE

(B) Secondary/Corner Side Facade

Building wall planes that do not contain the primary entrance to the building (but may contain a secondary entrance) and face a secondary street right-of-way on a corner lot.

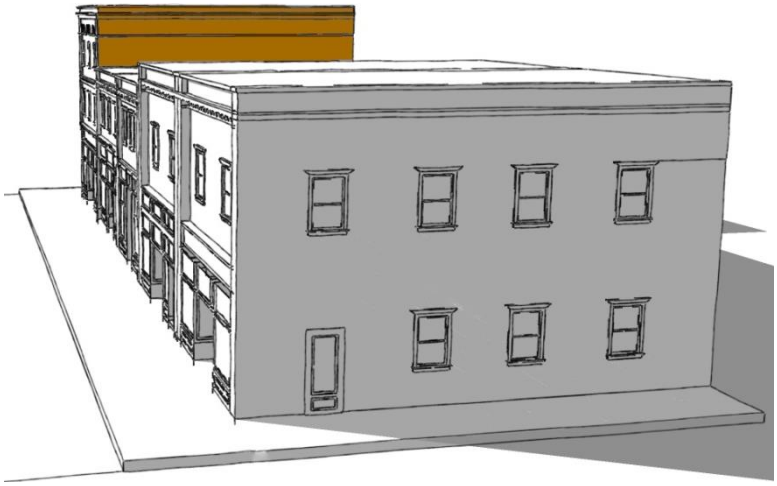
FIGURE 4.50: SECONDARY /CORNER SIDE FACADE



(C) Side Interior Façade

Building wall planes that do not face a street right-of-way and are generally perpendicular to the primary/front façade. In a Central Business District setting, these facades often directly abut the side interior façade of an adjacent structure and do not contain windows or doorways.

FIGURE 4.51: SIDE INTERIOR FACADE



(D) Rear Facade

Building wall planes that face the rear yard and generally parallel to the primary/front façade. In a Central Business District setting, these facades often face rear alley ways.

FIGURE 4.52: REAR FAÇADE

4.8.7.2 Guidelines for National Register Historic Districts: Secretary of the Interior's Standards for Rehabilitation

A portion of the Central Business District is in a National Register Historic District. In general, the Secretary of Interior's Standards for Rehabilitation are ***recommended*** when repairing, adding on, or rehabilitating existing buildings in the downtown, especially if the owner of the building wishes to utilize rehabilitation tax credits. These standards are located in Appendix B for reference purposes.

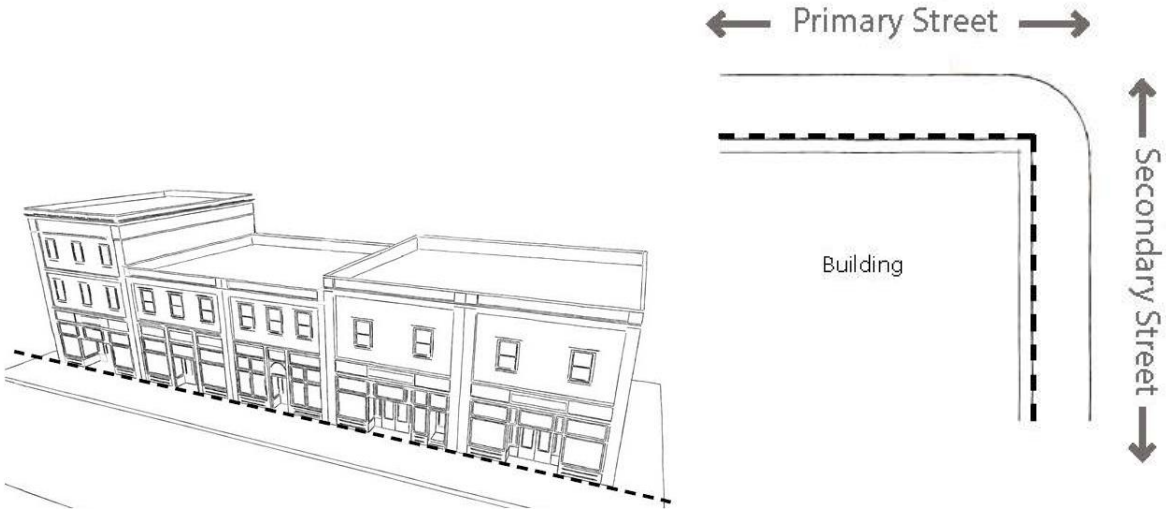
4.8.7.3 Building Orientation

Building orientation refers to how the structure is placed on a property, with particular focus on the primary façade of the structure.

(A) Structures shall be oriented so that their primary façade faces, and is parallel with, the principal street on which they are located.

(B) On corner lots both facades shall be oriented so that they face, and are parallel with, the adjoining streets.

FIGURE 4.53: BUILDING ORIENTATION



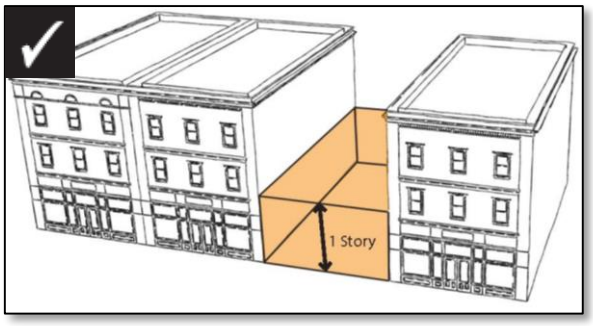
The illustrations above demonstrate the proper orientation of buildings parallel to the primary and secondary streets.

4.8.7.4 Building Height

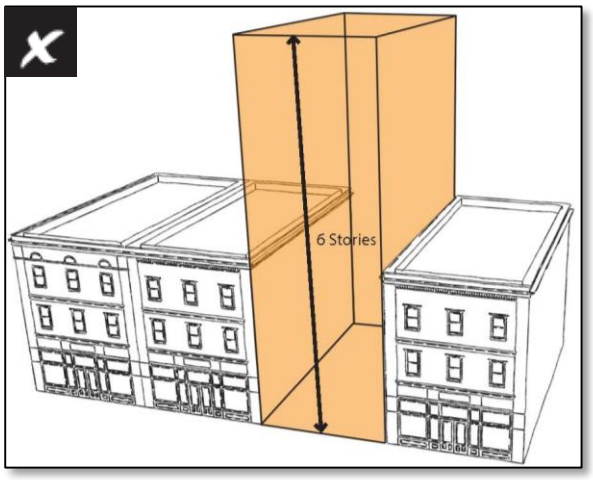
(A) The minimum clear interior height of the first story of building, as measured from the finished floor to the bottom of the second story floor plate shall be 12 feet.

(B) New buildings shall not be constructed that are more than two (2) stories or 24 feet taller or less than two (2) stories or 24 feet shorter than the average of the other buildings within the same block on the same side of the street within 250 feet.

FIGURE 4.54: BUILDING HEIGHT



Not more than 2 stories shorter than adjacent buildings



More than 2 stories taller than adjacent buildings

The illustrations above demonstrate minimum height of the first floor and building heights that are in the correct and incorrect range compared to the scale of the other buildings on the street. Maximum overall building heights for the CBD are set forth in Section 4.2.

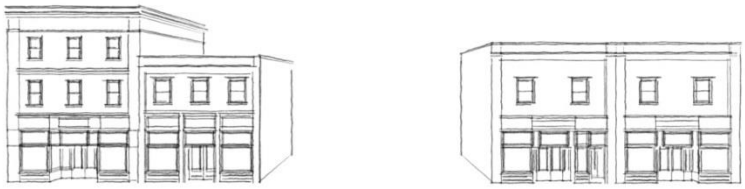
4.8.7.5 Building Massing and Scale

A building's mass defines its relationship to other structures and the street, as well as contributes to an area's identity. Neighboring buildings of similar size and massing work together to create a pleasing streetscape and provide consistency between adjacent buildings with different designs. A building's scale refers to its perceived size in relation to a person (i.e., human scale) or neighboring structures (i.e., architectural scale). Adjacent buildings sharing human-scaled architectural elements (e.g., windows, doors, porches, vestibules, stoops, awnings at entrance level, other ground-level pedestrian amenities) help establish an inviting, pedestrian-oriented streetscape. The following standards regarding massing and scale shall be met:

(A) New construction on lots that are significantly wider than adjacent existing lots shall utilize a design that divides and proportions the building to replicate the massing and scale of adjacent buildings.

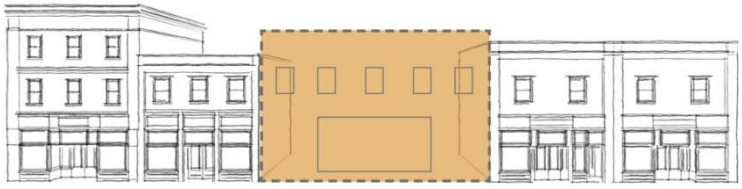
(B) Where other buildings within 250 feet on the same side of the street and within the same block occupy the full width of the lot b at the front build-to line, the new construction shall occupy the full width of the lot at the build-to line between the side lot lines unless sufficient width exists to provide driveway or pedestrian access to a rear parking area. Such pedestrian access shall be a minimum of six (6) feet wide.

FIGURE 4.55: MASSING AND SCALE



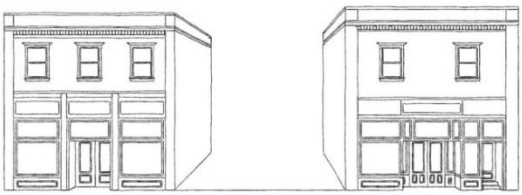
Infill Lot

Acceptable



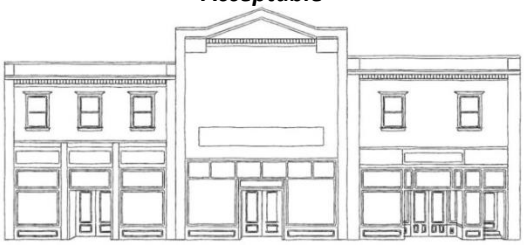
Not Acceptable

The illustrations above demonstrate acceptable and unacceptable building massing in an infill situation.



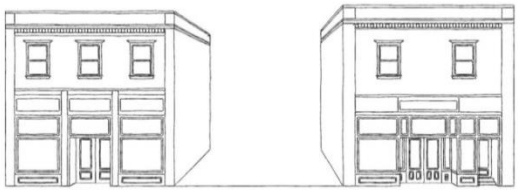
Infill Lot

Acceptable



Not Acceptable-
Taller gabled parapet and lack of second floor windows

The illustrations above demonstrate acceptable and unacceptable architectural scaling in an infill situation.



Infill Lot

Acceptable

Not Acceptable

The illustrations above demonstrate acceptable and unacceptable building width in an infill situation.

4.8.7.6 Building Façade Articulation

The use of architectural features and detailing on a building facade helps to define the scale and massing of a building. Elements should proportion a structure into a discernible base, middle and top, with an emphasis on accentuating the human scale along the facade of the ground story to create an inviting environment for pedestrians. The following building façade articulation requirements shall apply to all new construction:

(A) Architectural features and ornamentation shall be required on all facades of a building facing a public street to provide articulation and define the scale of the building.

(B) No primary or secondary/side corner façade shall have a length of wall greater than 10 feet without doors, windows, or horizontal articulation feature (as described in Subsection D) are prohibited.

(C) Buildings shall be vertically articulated by using a minimum of three (3) of the techniques listed below and depicted in the following Figure:

(1) Using different colors of materials along the vertical wall plane, with darker colors used on lower surfaces and lighter colors used on higher surfaces

(2) Providing a mid-level cornice.

(3) Recessing upper stories on multi-story buildings

(4) Using stepped parapet walls

(5) Providing towers or similar features that extend vertically above the top of the building wall

(6) Varying the height of different portions of a building

(7) Using distinct masonry patterns or inlays that extend vertically along the building wall

(8) Using piers or engaged columns that extend vertically along the building wall

(D) Building walls shall be horizontally articulated in a manner that provides visual interest and emphasizes the human scale by using two (2) or more of the below referenced techniques, or by an equally effective method that achieves the stated goal:

(1) Awnings

(2) Trellises

(3) Arcades

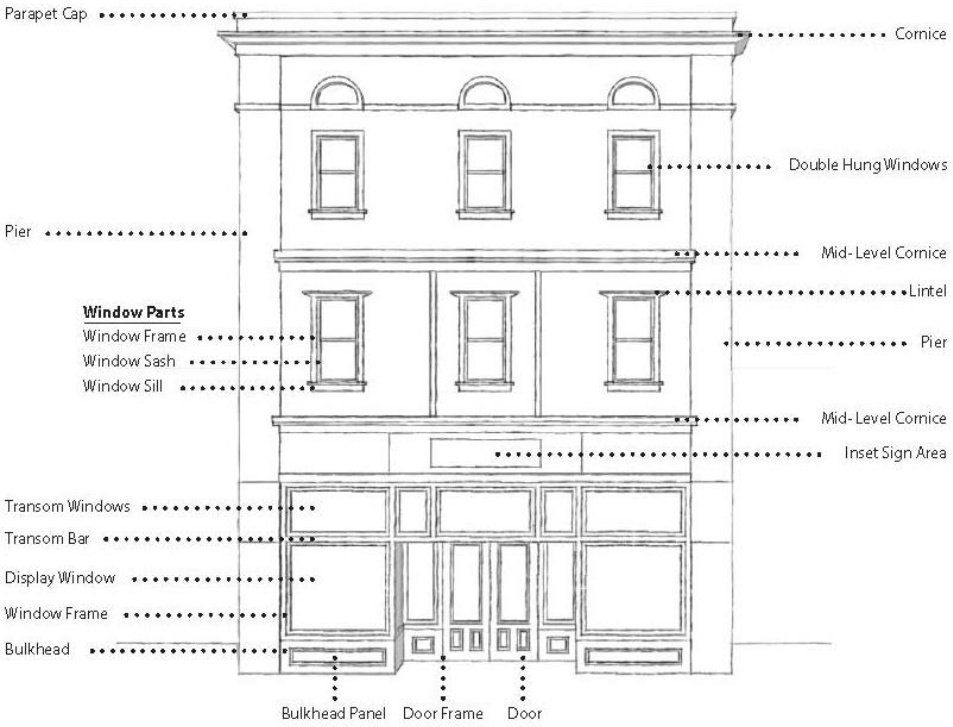
(4) Transom Windows

(5) Decorative masonry patterns

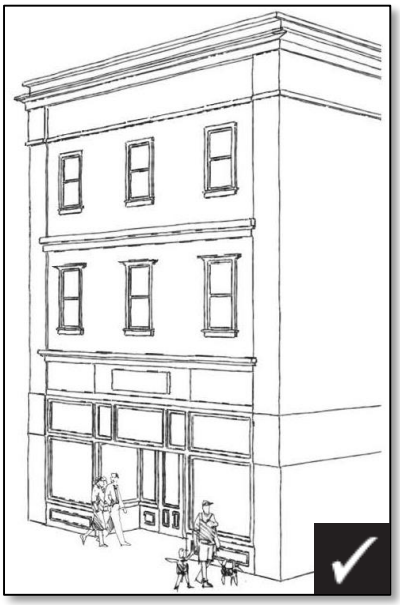
(6) Decorative metalwork

(7) Decorative inlays of brick, masonry, wood, stone or tile

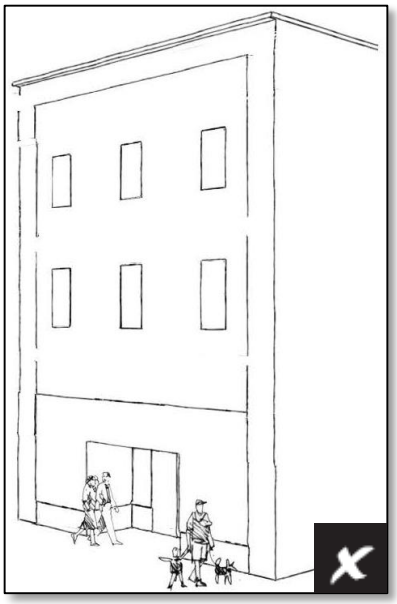
FIGURE 4.56: FAÇADE ARTICULATION



The diagram above illustrates the different features of a downtown building façade that may be incorporated in to new construction as appropriate.



Articulated facade



Unarticulated facade

4.8.7.7 Roof Form

(A) The predominant roof from of all other buildings within 250 feet on the same side of the street and within the same block shall be the roof form used for new construction. For flat roofs, parapets walls are required on any façade facing a public street.

(B) Parapets walls shall extend a minimum of two (2) feet above the top of the building wall, but shall not extend more than five (5) feet above the main building wall.

(C) Parapet wall height for adjoining buildings with the same number of stories shall vary by a minimum of two (2) feet and a maximum of five (5) feet. Stepped or vertically articulated parapet walls may exceed these height limitations within the middle 30 percent of the building facade, but in no case shall the highest point of a stepped parapet exceed eight (8) feet in height above the main building wall.

(D) Exposed gutters and downspouts are prohibited on the primary façade of a building.

(E) Gutters, downspouts and scuppers shall be placed so that they are concealed from view from the primary façade or secondary facades that front on a public sidewalk.

FIGURE 4.57: ROOF FORM

The diagrams above illustrate the maximum parapet height (left) and the relationship of adjoining parapet walls and how they come together to form a varied roof line along the block of buildings.

4.8.7.8 Materials and Color

(A) Primary Materials

(1) A minimum of 75 percent of primary and secondary facades shall be clad architectural quality, individually set, naturally colored brick, granite, limestone, marble or similar slab or block stone are allowed for use on the primary surfaces of exposed building facades.

(2) Brick shall be applied in a manner that emphasizes the storefront, window openings, projecting lentils, corbeling adjacent to and/or as a part of the cornice features, building piers, and other ornamental features.

(3) Brick shall be applied in a manner that adds interest to the façade by utilizing masonry techniques that vary the patterns of brick through the use of a variety of brick course patterns and designs.

(4) Special attention shall be given to corners to ensure the brick course work is wrapped in a continuous manner along all sides of the building.

(5) No more than two (2) styles of brick may be utilized on a facade.

(6) Where there are multiple exposed facades facing public streets, the same course patterns, brick styles and other characteristics shall be applied equally to each facade.

(7) Rear facades may be designed without any architectural detailing, but shall use the primary building materials.

(B) Secondary Materials

Treated wood, stacked stone, exterior quality tile, stucco or EIFS, cast or preformed concrete and architectural grade metal may be utilized on building surfaces where the primary cladding materials are not applied, provided that such materials (excluding glazed areas) do not exceed 25 percent of the surface area of the facade

Brick façade with formed concrete accents

Stucco/EIFS facade

(C) Lintels

If exposed lintels are used in construction, they shall be made of stone or brick, and shall project a minimum of three (3) inches from the surface of the building

(D) Cornices

(1) Upper story and mid-level cornices may be included on the primary building façade.

(2) Cornices may be constructed of brick, architectural grade metal or cast concrete.

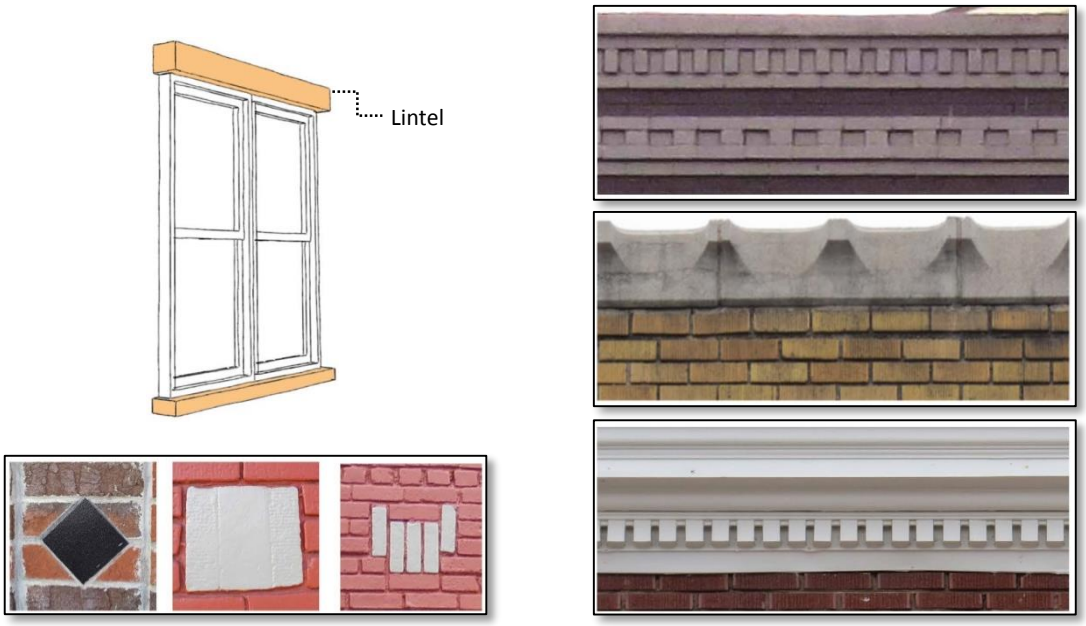
(E) Inlays

(1) The primary building surface may include decorative inlays that do not total more than 10 percent of the primary façade surface area.

(2) Inlay materials may include, tile, natural stone, decorative glass, or similar materials.

FIGURE 4.58: EXTERIOR MATERIALS

The illustrations above depict appropriate primary (left) and secondary (right) material locations on an example building.



The figures above show examples of lintels (top left), inlays (bottom left), and cornices (right). The example cornices are (top to bottom) brick, cast concrete, and metal.

(F) Color

(1) Brick and stone shall be unpainted and naturally colored. Brick may only be painted to maintain the historic integrity of existing buildings

(2) Where existing brick buildings have been painted, the primary surfaces of the buildings may only be repainted with low reflectance, earth tone, muted, subtle, and neutral colors. The use of high-intensity, metallic, fluorescent, or neon colors is not permitted.

(3) Secondary materials may be painted.

Brick façade with bright accents

High-intensity colors on whole facade

FIGURE 4.59: BUILDING COLOR

The figure above shows the appropriate use of primary and accent colors on primary and secondary surfaces of the building façade.

4.8.7.9 Storefront Design

The storefront is the public face of a building and the most prominent feature at the pedestrian scale. A storefront designed to be open and inviting will help to welcome patrons inside, while a storefront that is hardened presents the opposite message. Most storefronts have an abundance of glass, which is a contributing factor in good storefront design since the openness of the glass invites browsing and allows pedestrians to see interior activity. Good storefront design also allows for pedestrians to be able to view the interior of the building from the main portion of the sidewalk. Therefore, excessively recessed storefronts are discouraged since they require a passerby to leave the main sidewalk to see clearly into the storefront. The following storefront design standards requirements shall apply to all new construction and reconstruction of storefronts:

(A) Buildings shall be designed so that the majority (greater than 50 percent) of the width of the storefront wall is located immediately adjacent to the public sidewalk. Storefronts shall run the length of the first floor facade between the exterior building piers.

(B) No more than 20 percent of the storefront wall may be recessed beyond eight (8) feet from the public sidewalk.

(C) Storefront design shall be proportional to that of other buildings within the same block on the same side of the street without being an exact replication of those buildings.

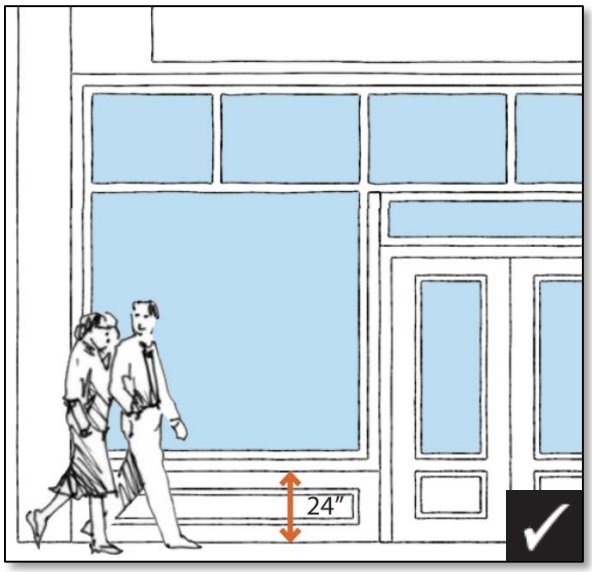
(D) Bulkheads should be neither too high, blocking the view of pedestrians, nor too low, so that a completely glass walled storefront is created. Bulkheads shall be constructed along all storefront areas, excluding customer entrances. Bulkheads shall be a minimum of 24 inches and maximum of 36 inches in height. Bulkheads may be constructed of brick, wood, or a combination of those two materials. Bulkheads shall include architectural detailing such as inlays, trim, changes in color or changes in material.

(E) A minimum of 70 percent and maximum of 90 percent of the surface area of the storefront shall consist of transparent glass between a height of two (2) feet and 10 feet above the grade of the adjacent sidewalk. Glass block does not count toward this requirement.

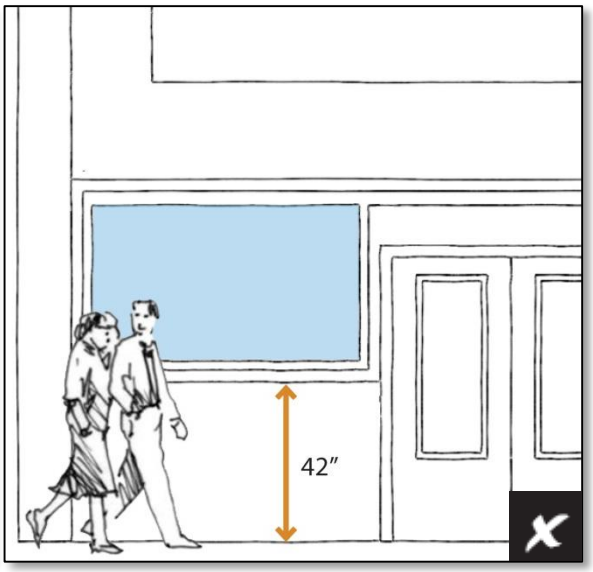
(F) Reflective or opaque glass is prohibited.

(G) Permanent bars, gates, shutters, fencing or other barrier materials are prohibited on the exterior of a primary facade. Security gates may be used after business hours.

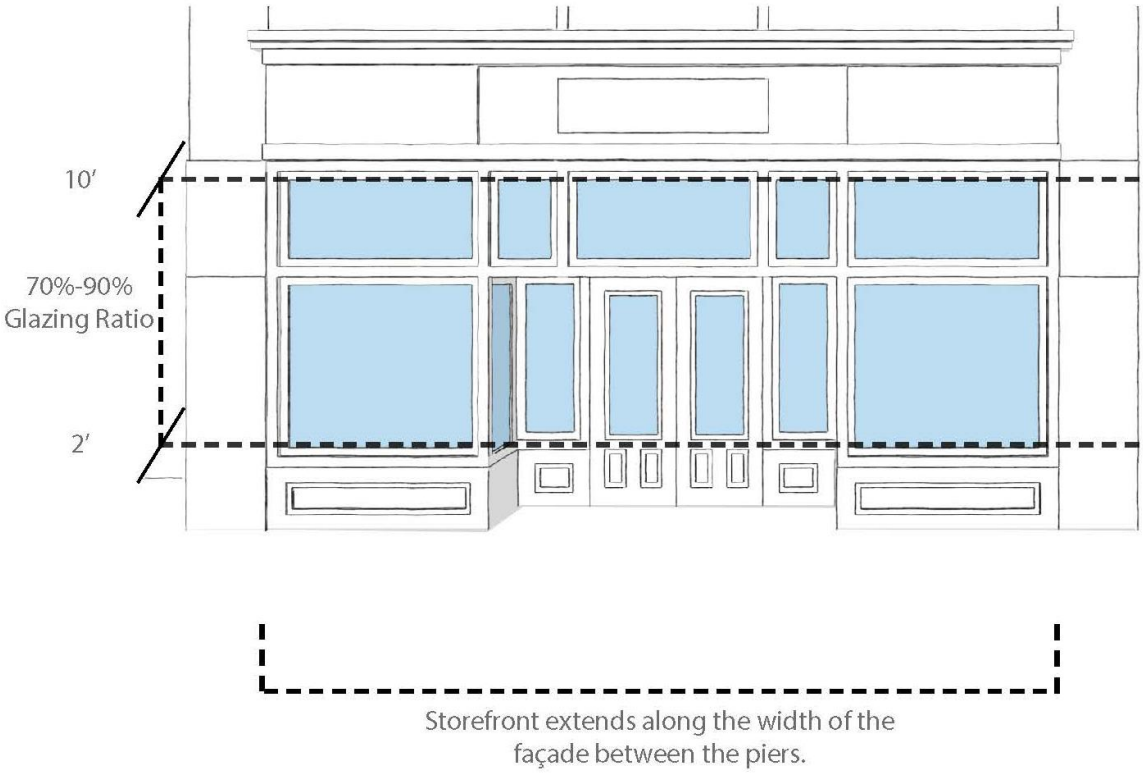
FIGURE 4.60: STOREFRONT DESIGN



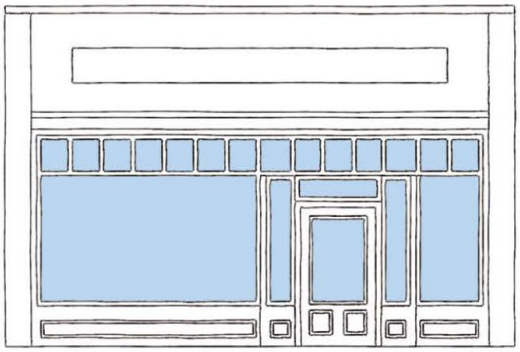
Properly Sized Bulkhead

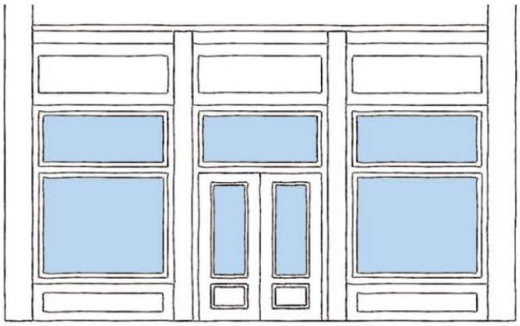


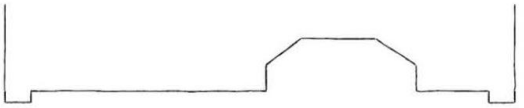
Improperly Sized Bulkhead

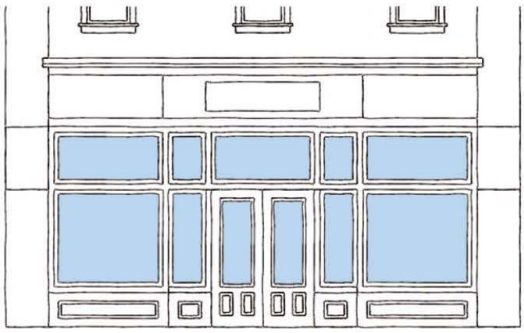


The diagram above illustrates the proper glazing ratio for a storefront design.









These illustrations are examples of acceptable storefront designs that demonstrate diversity of design while still meeting the standards of this section.

4.8.7.10 Upper Story Windows

(A) Upper story windows shall have a minimum height to width ratio of two to one (2:1) and a maximum height to width ratio of three to one (3:1).

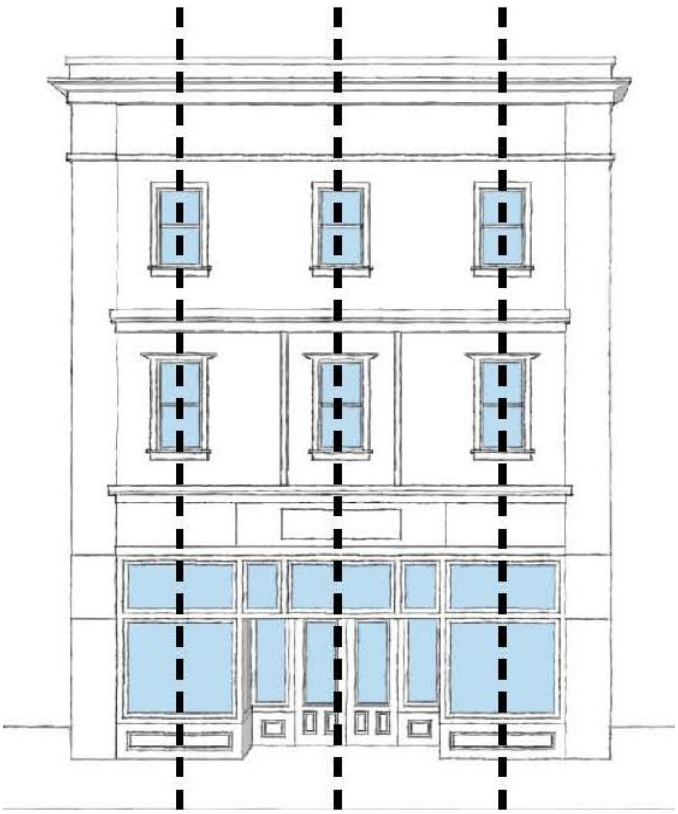
(B) Windows shall have the appearance of operable double hung windows.

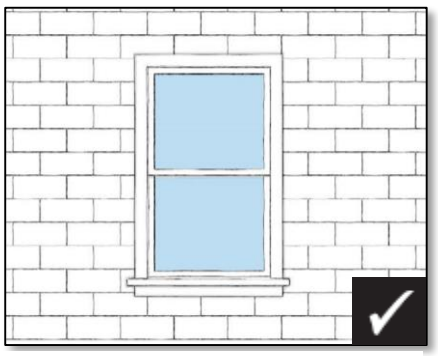
(C) Upper story windows should align horizontally with windows on the same story and be centered on windows below.

(D) Only transparent, non-mirrorized glass shall be used.

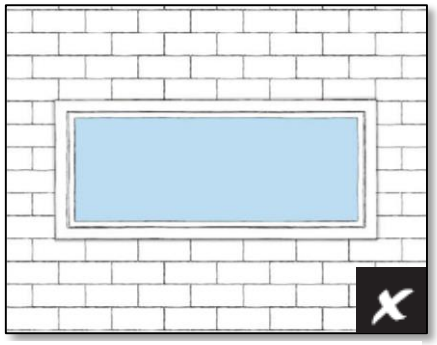
(E) A minimum of 30 percent of the linear width of each upper floor shall contain glazed area.

FIGURE 4.61: UPPER STORY WINDOWS



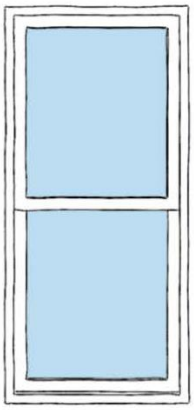


Acceptable Upper Story Window

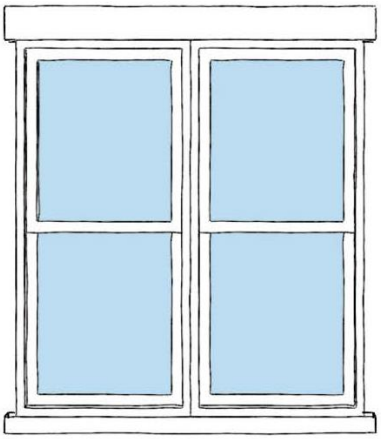


Unacceptable Upper Story

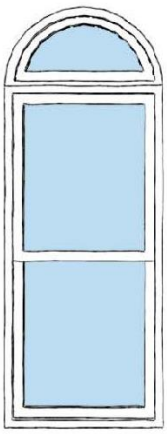
The diagrams above illustrate proper alignment of upper story windows with first floor windows (left) and a properly designed upper story window (right).



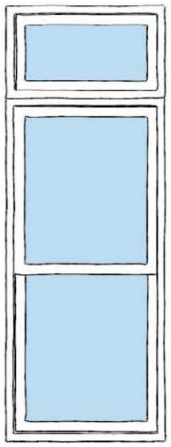
Double hung1 over 1 window



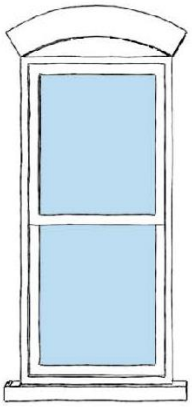
Two adjacent double hung 1 over 1 windows with lintel



Double hung 1 over 1 window with arched transom

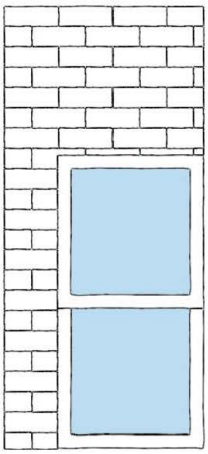


Double hung 1 over 1 window with transom

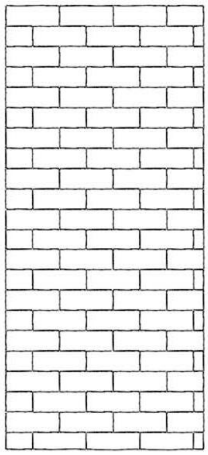


Double hung 1 over 1 window with arched lintel

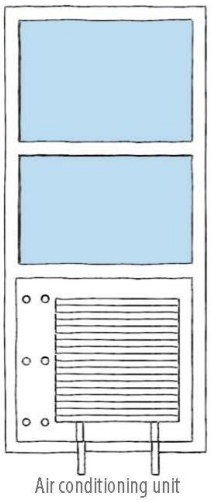
ACCEPTABLE: *The illustrations above show examples of acceptable upper story windows.*



Window frame partially filled with brick



Window frame bricked-in.



Air conditioning unit

NOT ACCEPTABLE: *The illustrations above show examples of unacceptable upper story windows.*

4.8.7.11 Entrances

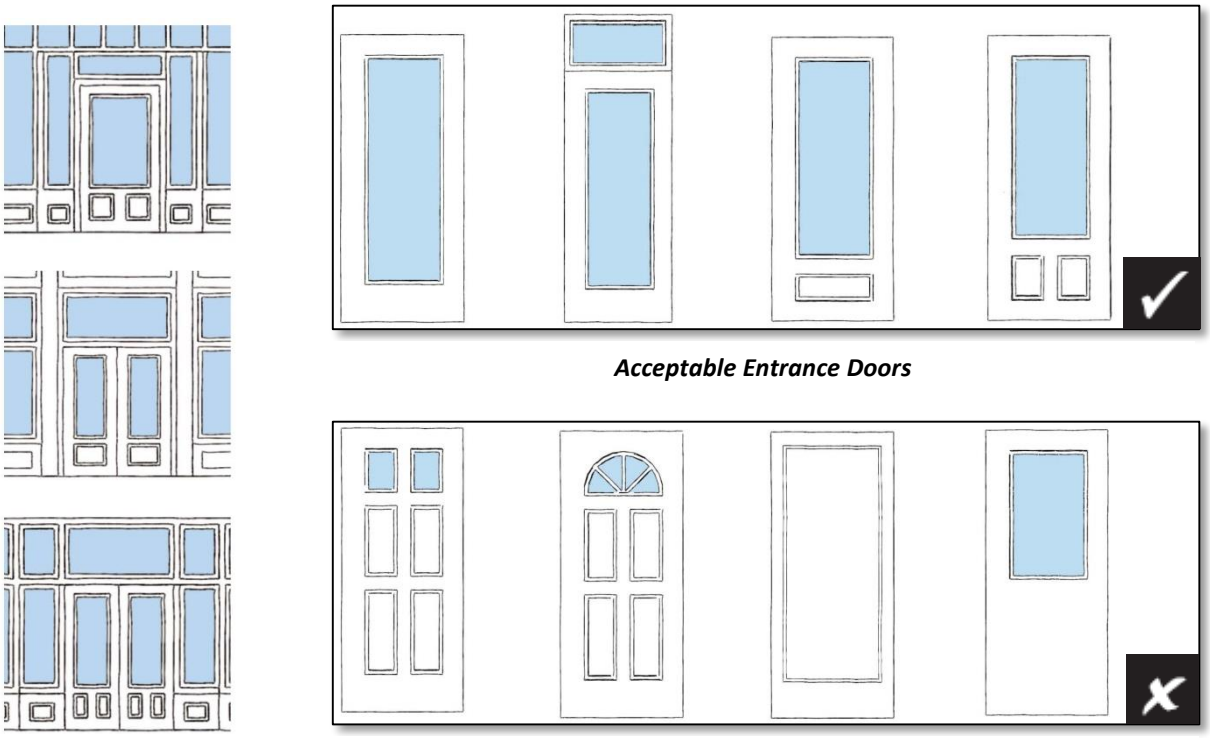
From a pedestrian point of view, doors and entranceways are one of the most obvious and recognizable building features. The door and entranceway is a gateway to building interior and therefore it is important that the entrance be perceived as a cohesive element of the storefront façade and not as a separate entity.

(A) Primary entrances of first floor uses shall face the primary street frontage, while secondary entrances may face parking areas or secondary street frontages.

(B) On primary and secondary street frontages, the surface area of primary and secondary entrances to first floor uses shall have a minimum glazed area of 70 percent.

(C) Only transparent glass is permitted. Reflective or opaque glass is prohibited.

FIGURE 4.62: ENTRANCES



The diagrams above illustrate well designed building entrances (left) and a properly designed entrance doors (right).

4.8.7.12 Awnings and Canopies

Awnings and canopies can serve several functions such as stimulating visual interest, protecting pedestrians from weather, and shielding items from sun damage in storefront displays. Awnings are recommended to provide visual interest and protect pedestrians from inclement weather. Awning shall meet the following standards:

(A) Awnings shall not extend in width past the storefront area into the building piers. Awning shape shall relate to the window or door opening. Barrel shaped awnings should be used to complement arched openings while rectangular awnings should be used on rectangular openings.

(B) When there are multiple storefronts, awnings/canopies should correspond in size, color, and material. Buildings with multiple storefronts shall use separate awnings for each storefront.

(C) Awnings and canopies shall not block architectural features, including transom windows, and shall be attached to the vertical wall and lead to the public entrance.

(D) Awnings shall protrude at least three (3) feet from the building façade and shall be at least eight (8) feet above the grade of the sidewalk.

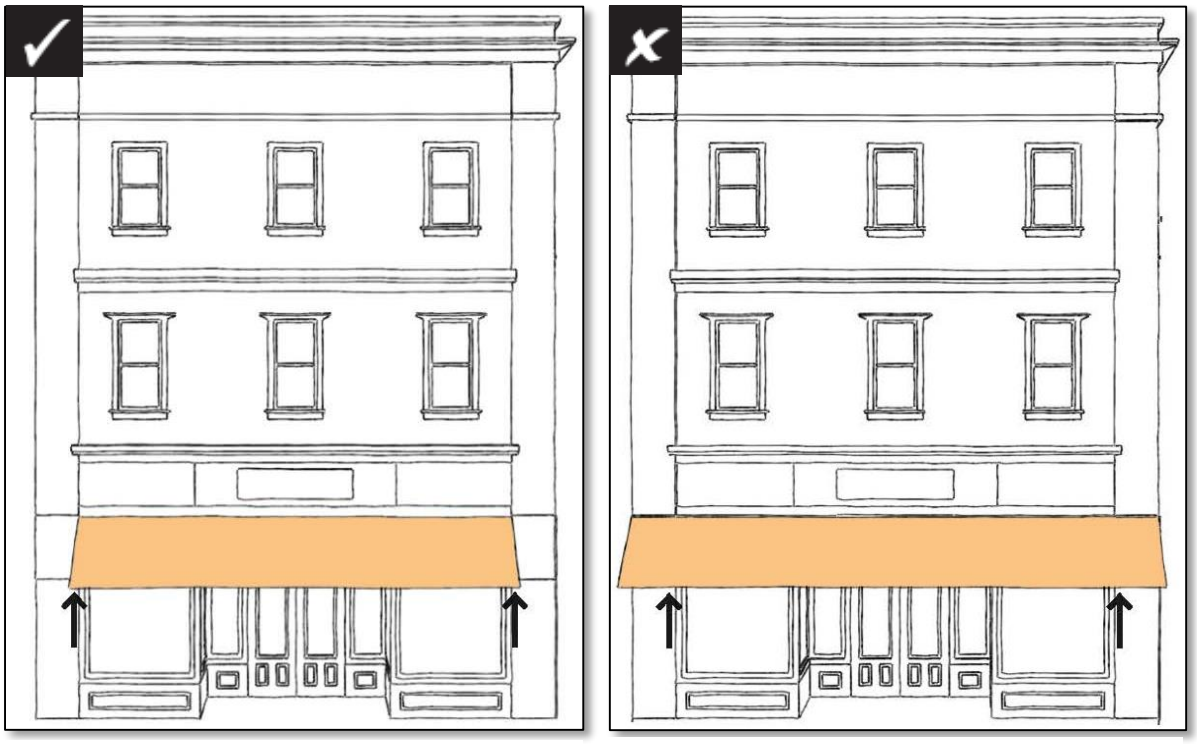
Rectangular awning

Barrel awning

(E) Acceptable materials include woven cloth, canvas or architectural metal. Awnings shall be a shade of black or any other accent color that is low reflectance, earth tone, muted, subtle, and neutral colors. The use of high-intensity, metallic, fluorescent, or neon colors is not permitted. Backlighting of awnings is not permitted.

FIGURE 4.64: AWNINGS

The diagram above illustrates the minimum awning depth and clearance.



Acceptable placement ***Unacceptable placement beyond storefront***

4.8.7.13 Lighting

(A) Building mounted lighting may be used to draw attention to window displays, signs, store information and a building's architectural details.

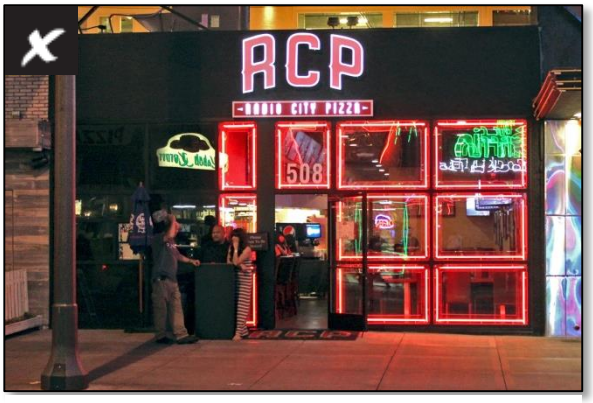
(B) Building mounted lighting shall provide particular focus on the architectural integration of lighting into the overall design of the structure.

(C) Lighting shall be directed onto the display or building element not onto the street or adjacent properties.

(D) Lighting fixtures shall complement the architectural elements within the existing façade.

(E) Framing window displays or other architectural features of the building with neon or tube lighting is not permitted.

(F) Lighting shall be in full compliance with all other outdoor lighting provisions, as set forth in Section 4.7.5.



Neon-framed windows

4.8.7.14 Mechanical and Utility Equipment

(A) In order to conceal utility equipment from public view, it shall be integrated with the building structure by either placing or mounting it directly to the structure and located in such a manner that it is not visible from a public street.

(B) Utility equipment may be screened through the use of parapet walls or architecturally integrated screen walls.

4.8.7.15 Maintenance and Repair of Existing Historic Structures

Refer to Appendix B for information and resources regarding the maintenance and repair of existing historic structures.

ARTICLE 5
SIGN STANDARDS

Article 5 Contents

5.1 Purpose and Applicability 5-3
5.2 General Provisions 5-4
5.3 Signs that Do Not Require a Permit 5-8
5.4 Signs that Require a Permit 5-14
5.5 Prohibited Signs 5-22

5.1 Purpose and Applicability

(A) The purpose of this Article is to support and complement the various land uses allowed in the City of Morganton jurisdiction by the adoption of standards concerning the placement of signs. The outdoor placement of signs is a legitimate use of private property but shall be controlled and regulated in order to promote the health, safety, welfare, convenience and enjoyment of travel on roadways, as well as protect the public investment in such roadways. The provisions of this Article are also intended to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this section to prevent signs from dominating the visual appearance of the area in which they are located and to enhance the aesthetic environment of Morganton.

(B) Except as otherwise provided in this Ordinance, it shall be unlawful for any person to construct, place, enlarge, move, or replace any sign, without first having obtained a zoning permit for such sign from the Development and Design Services Department as required by this Ordinance. A fee, in accordance with a fee schedule adopted by the City Council, shall be charged for each permit issued. The procedures for obtaining a Zoning Permit for a sign are located in Section 2.2 of this Ordinance.

(C) Existing nonconforming signs shall meet the requirements of Section 6.6 of this Ordinance.

5.2 General Provisions

5.2.1 Sign Design Guidelines

(A) Materials, colors and shapes of proposed signs shall be compatible with the buildings and principal uses located on the same property and adjacent properties.

(B) The sign shall not be the dominant feature of its location.

(C) A uniform sign plan shall be required for all office and retail complexes and multi-tenant buildings. All tenants shall comply with the approved uniform sign plan.

5.2.2 Sign Area

(A) The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. The surface area of the sign structure shall not exceed two (2) times the surface area of the sign face.

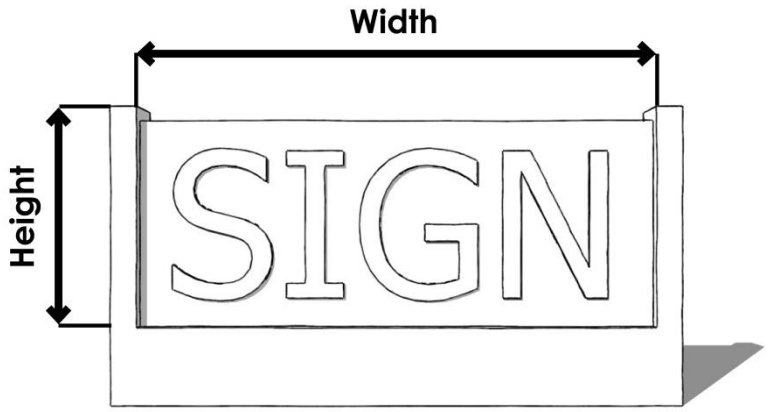
(B) In the case of signs mounted back-to-back, only one (1) side of the sign shall be included in the area. Otherwise, the surface area of each sign is to be separately computed.

(C) In the case of multi-sided signs, cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional (3-D) with respect to their display surfaces, the area is equal to the sum of the areas of any two (2) adjacent sides.

(D) In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately (according to the method described immediately above in this Section) as part of the total surface area of the sign.

(E) If a sign is attached to an entrance wall, only that portion of that wall onto which the sign face or letters are placed shall be calculated in the sign area.

FIGURE 5.1: SIGN AREA



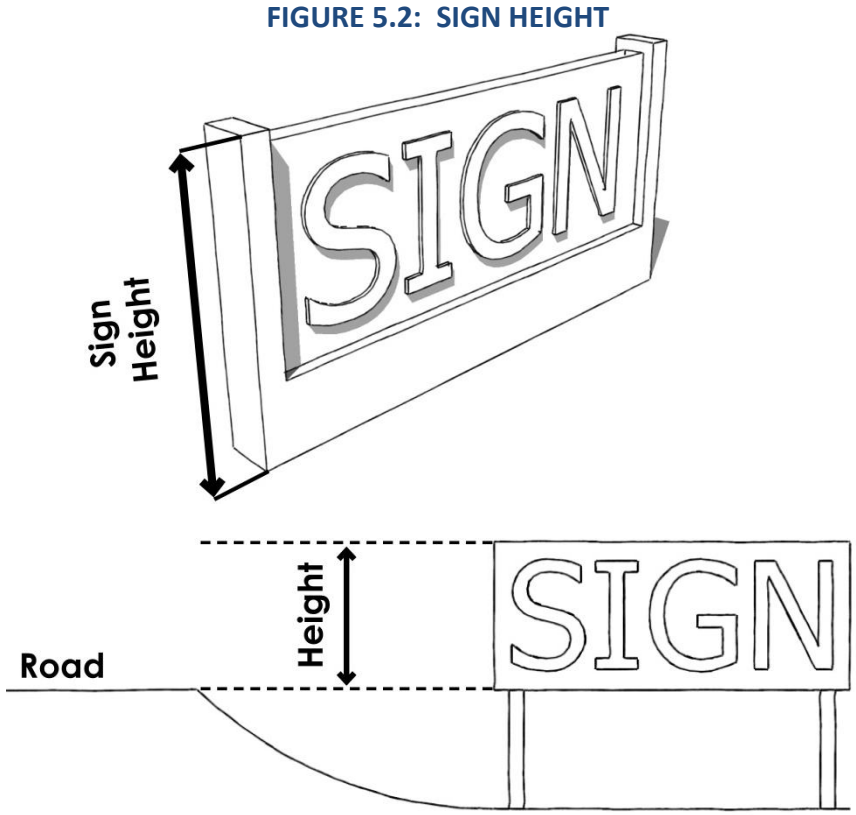
5.2.3 Sign Height

(A) The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it.

(B) For sign locations located below the grade of the adjacent street to which it has access, the height of a sign shall be measured from the highest point of the sign to the elevation of the fronting accessible street adjacent to the sign.

(C) Ornamentation such as caps, spires and finials shall not extend more than two (2) feet from the top of the sign.

FIGURE 5.2: SIGN HEIGHT



5.2.4 Sign Setbacks

(A) Every part of all signs shall be located outside of the right-of-way. The location of the right-of-way shall be determined by the Burke County tax map. The following signs are exempt except that the following:

(1) Wall signs within the CBD zoning district that meet the requirements set forth in Section 5.4.2 may project into the right-of-way

(2) Development entryway signs that meet the requirements of Section 5.4.1 shall be located in the islands within City-maintained street right-of-way upon the acceptance of an encroachment agreement by the City.

(B) At intersections, no sign shall be in the sight triangle as defined by this Ordinance.

(C) No freestanding sign shall be located within 50 feet of any other freestanding sign unless the Development and Design Services Department determines that practical difficulties exist for locating the sign.

5.2.5 Sign Illumination

(A) All illuminated signs shall have their lighting directed in such a manner as to illuminate only the face of the sign.

(B) External light sources shall not be visible from the right-of-way nor cause glare hazards to pedestrians, motorists, or adjacent properties.

5.2.6 Maintenance and Upkeep of Signs

(A) Every sign and its support, braces, guys, anchors and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept in a state of good repair and aesthetic condition, free from defective, rusting, or missing parts (i.e. broken sign facing, broken supports, loose appendages or struts, disfigured, cracked, ripped or peeling paint or poster paper) or missing letters or numbers and shall be able to withstand the wind pressure as prescribed in the North Carolina Building Code. Illuminated signs shall not be allowed to operate with only partial illumination.

(B) Signs that are structurally unsafe and thereby endanger the public safety shall be removed unless they are repaired and made to comply with the requirements of the Building Code, as amended. If the Development and Design Services Department shall find that any sign is dangerous or is menace to the public, he shall give written notice of such violations to the owner of the sign, or by leaving said notice with the manager or other person who is apparently in charge of the premises or by affixing a copy of the notice to the sign, sign structure or building for a period of five (5) days. The notice shall set forth the nature of the violation and order the violator to repair the sign in such a manner to be approved by

the Development and Design Services Department in conformance with the provisions of this Chapter or remove the sign forthwith in the case of imminent instability or immediate danger of falling, and in any case within 10 days of receipt. If within 10 days the notice is not complied with, the Development and Design Services Department shall have the authority to remove the sign at the recipient's expense and to destroy or otherwise dispose of same. In cases of emergency, the Development and Design Services Department may cause the immediate removal of a dangerous or unsafe sign without notice.

5.2.7 Removal of Discontinued Signs

(A) If a conforming sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, a blank sign face shall be installed within 180 days after such discontinuation.

(B) If a nonconforming sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted that sign and sign structure including, but not limited to, the supporting braces, anchors or similar components shall be considered discontinued regardless of reason or intent and shall, within 180 days after such discontinuation, be removed by the owner of the property where the sign is located.

5.2.8 Removal of Signs in the Right-of-Way

The Development and Design Services Department or designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street. Penalties shall be levied for each such sign as outlined in Section 2.3.5 of this Ordinance.

5.3 Signs that Do Not Require a Permit

The following types of signs are exempt from permit requirements and may be placed in any zoning district. Such signs shall otherwise be in conformance with all applicable requirements contained in this Ordinance. All such signs (except government signs) shall be located outside of the street right-of-way and shall not be illuminated.

5.3.1 Civic Signs (off-premises)

Signs which denote the location of religious, charitable, fraternal, military or service organizations that are located within the City of Morganton's jurisdiction.

Max. Area	6 square feet per organization
Max. Height	6 feet tall
Max. Number	2 off-premises signs per organization, 1 sign per lot of record
Min. Setback	Outside of right-of-way
Other	NA

NA=Not Applicable

Civic Sign

5.3.2 Internal Directional Signs (on-premises)

Signs that are located on the premise/property to provide directions.

Max. Area	12 square feet
Max. Height	6 feet tall
Max. Number	N/A
Min. Setback	Not legible from public right-of-way
Other	Signs shall contain no copy other than directional information.

NA=Not Applicable

On-premises Directional Sign

5.3.3 Entrance/Exit Directional Signs (on-premises)

Signs that are located at a driveway entrance from a public street or internal access drive to provide directions to enter and exit the property.

Max. Area	4 square feet
Max. Height	3 feet tall
Max. Number	N/A
Min. Setback	Outside of right-of-way
Other	Signs shall contain no copy other than directional information, "enter", "exit", "welcome", "thank you, business name or logo

NA=Not Applicable

Entrance/Exit Directional Sign

5.3.4 Flags

Flags or insignia of any nation, organization of nations, state, county or municipality, any religious, civic or fraternal organization, or any educational or cultural facility and/or any one (1) corporate flag per lot. Flags used for advertising a particular business or service shall be regulated by Section 5.3.11 (B) (4).

Max. Area	NA
Max. Height	Maximum district height
Max. Number	4 per lot of record
Min. Setback	Outside of right-of-way
Other	NA

NA=Not Applicable

*The Requirements of this section shall not apply to flags on public property.

Flags

5.3.5 Government Signs

Signs posted or authorized by various local, state and federal agencies in the performance of their duties including providing community information and facilitating economic development. Such signs include but are not limited to regulatory signs, traffic signs, welcome signs, bulletin board, directory, and wayfinding signs.

Max. Area	NA
Max. Height	Maximum district height
Max. Number	NA
Min. Setback	May be located in right-of-way
Other	NA

NA=Not Applicable

Government Sign

5.3.6 Legal and Warning Signs

Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies; signs required for or specifically authorized for a public purpose by any law, statute or ordinance.

Max. Area	8 square feet
Max. Height	10 feet
Max. Number	NA
Min. Setback	May be located in right-of-way
Other	NA

NA=Not Applicable

Warning Sign

5.3.7 Occupant/Address Number Signs

Signs affixed to structures, including but not limited to mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant.

Max. Area	8 square feet
Max. Height	NA (structure mounted)
Max. Number	1 per street frontage or entrance
Min. Setback	NA (structure mounted)
Other	All such signs shall be placed in such a manner as to be visible from the street.

NA=Not Applicable

Address Sign

5.3.8 Placard Signs

Small signs attached to a wall near the building entrance which displays historic designations or the name, address and/or logo, trademark, occupation or profession of the occupant or building.

Max. Area	10 square feet
Max. Height	NA (wall mounted)
Max. Number	1 per street frontage
Min. Setback	NA (wall mounted)
Other	NA

NA=Not Applicable

Placard Sign

5.3.9 Incidental Signs

Signs that cannot be read from the street right-of-way which inform or instruct customers or visitors on-site (i.e. drive-through menu boards, gas pump signs, bulletin boards, signs inside of a stadium).

Max. Area	NA
Max. Height	NA
Max. Number	NA
Min. Setback	NA
Other	Sign shall not be legible or attract attention from off site

NA=Not Applicable

Incidental Sign

5.3.10 Political Signs

Signs displaying support for or opposition to a candidate, political party, or referendum. These signs shall be permitted in accordance with NCGS 136-32(b).

Max. Area	6 square feet in right-of-way, 16 square feet on private property
Max. Height	3 feet
Max. Number	NA
Min. Setback	NA
Other	Shall be permitted up to 45 days prior to election/referendum and 10 days after

Political Sign

NA=Not Applicable

5.3.11 Temporary Freestanding Signs

(A) Temporary freestanding signs shall not be located within a public street right-of-way or sight triangle and shall not be attached to trees or utility poles or on publicly-owned property. Temporary signs shall not be illuminated except for temporary holiday decorations. Each lot of record within the jurisdiction of the City of Morganton may have up to one (1) temporary sign unless otherwise specified in this Section.

(B) Temporary freestanding signs include those listed below. Temporary signs that do not fit into one (1) of the following categories are not permitted:

(1) Real Estate and Construction Signs

Signs that advertise the sale or lease of a property or the construction of a new building.

Max. Area	• 6 square feet (single-family and two-family residential • 18 square feet (multi-family residential and non-residential)
Max. Height	• 3 feet (single-family and two-family residential • 6 feet (multi-family residential and non-residential)
Max. Number	1
Min. Setback	Outside of right-of-way
Other	• Shall be removed upon completion of sale, event or feature being promoted • Shall not interfere with pedestrian or vehicular circulation or sight lines

Real Estate Sign

(2) A-frame signs

Signs with two sides angled vertically that advertise a special sale, event, or feature that are removed at the close of business each day. This sign type includes changeable grease boards, black boards and white boards.

Max. Area	6 square feet
Max. Height	3 feet
Max. Number	1
Min. Setback	Outside of right-of-way
Other	• Shall be removed daily at close of business • Shall not interfere with pedestrian or vehicular circulation or sight lines

A-frame Sign

(3) Wire Frame Signs

Two-sided plastic signs on a metal wire frame that affixes to the ground and advertises a special sale, event or feature.

Max. Area	6 square feet
Max. Height	3 feet
Max. Number	1
Min. Setback	Outside of right-of-way
Other	• Allowed in MID and HID zoning districts only • Shall be removed daily at close of business • Shall not interfere with pedestrian or vehicular circulation or sight lines

Wire Frame Sign

(4) Feather Flags

Signs on flexible material that blow in the wind like a flag and resemble the outline of a feather and advertise a business, special sale, event, or feature.

Max. Area	18 square feet
Max. Height	8 feet
Max. Number	1
Min. Setback	Outside of right-of-way
Other	• Allowed in MID, HID, and CBD zoning districts only • Shall be removed daily at close of business • Shall not interfere with pedestrian or vehicular circulation or sight lines

Feather Flag

(5) Fundraiser signs

Signs identifying or promoting fundraising campaigns or events for tax-exempt, non-profit organizations.

Max. Area	18 square feet
Max. Height	8 feet
Max. Number	1
Min. Setback	Outside of right-of-way
Other	• Shall not interfere with pedestrian or vehicular circulation or sight lines • Maximum of 30 days per campaign or event

Fundraiser Sign

(6) Yard Sale Signs

Signs identifying a temporary yard sale that meets the requirements of Section 3.4.8 (D) (7). Such signs are placed no more than one (1) prior to the yard sale and are removed a maximum of (1) day after the yard sale.

Max. Area	6 square feet
Max. Height	3 feet
Max. Number	1
Min. Setback	Outside of right-of-way
Other	• Shall be placed no more than 1 day prior to the yard sale and shall be removed a maximum of 1 day after the yard sale • Shall not interfere with pedestrian or vehicular circulation or sight lines

Yard Sale Sign

5.4 Signs that Require a Permit

All of the signs enumerated in this section require a Zoning Permit prior to construction or alteration of a sign. See Section 2.2 for Zoning Permit procedures.

5.4.1 Development Entrance Sign

Permanent sign each the entrance of multiple lot neighborhoods or non-residential developments that identifies only the name and/or address of the development or neighborhood. Development entrance signs cannot be used in combination with freestanding signs.

5.4.1.1 District and Size Standards

District	Sign Type Allowed	Max. Area (square feet)	Max. Height (feet)	Max. Number	Other
LID	PL	35 sf	8	2	Maximum area may be split between 2 signs on either side of each development entrance
MID	PL	35 sf	8	2	
HID	PL	50 sf	8	2	
CBD	PL	25 sf	8	2	
EID	PL	50 sf	8	2	
SID	PL	50 sf	8	2	

Development Entrance Sign

P: Sign permitted
L: Illumination Allowed
NA=Not Applicable

5.4.1.2 Design Standards

(A) All development entrance signs shall be monument or arm style.

(B) Development entrance signs within the River District Overlay shall incorporate stacked stone or similar material into the base and/or columns of the sign. Sand-blasted wood signs are encouraged.

(C) Development entrance signs may be placed in an island located within a City-maintained public street right-of-way upon approval of encroachment agreement by the City.

5.4.2 Wall Sign

A permanent sign that identifies a business or organization or available services or merchandise that is affixed to a building wall, window, canopy or awning. Wall signs include any combination of projecting signs, awning signs, canopy signs, window signs, and wall-mounted banners.

Typical Wall Sign

5.4.2.1 District and Size Standards

District	Sign Type Allowed	Max. Area (10% of building wall up to)	Max. Number (per wall)	Other
LID	PL*	24 sf	1	• Area calculated based on total area of building wall upon which the sign is located • Max. area may be split between number of signs allowed
MID	PL	100 sf	2	
HID	PL	500 sf	4	
CBD	PL	100 sf	4	
EID	PL	300 sf	3	
SID	PL	100 sf	2	

P: Sign permitted
L: Illumination Allowed
*: External illumination only

Projecting Sign

Awning and Window Signs

5.4.2.2 Design Standards

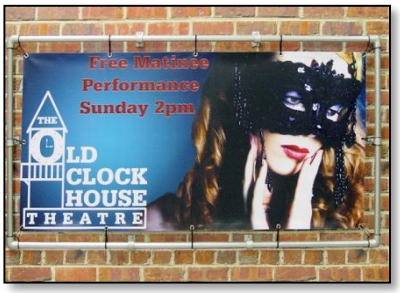
(A) Wall signs may be located on any building wall.

(B) Canopy and awning signs shall not cover more than 50 percent of the canopy or awning area. Signs hanging beneath a canopy shall not be greater than five (5) square feet and shall provide a minimum eight (8) foot vertical clearance.

(C) Window signs shall not comprise more than 50 percent of the window area in addition to the maximum area requirements of Section 5.4.2.1 above. Temporary banners shall not cover windows.

(D) Wall signs shall not project more than 12 inches from the wall face, except for projecting signs which may project up to four (4) feet. Projecting signs shall provide a minimum eight (8) foot vertical clearance.

Canopy Sign



Temporary Banner

(E) Projecting signs shall be limited to 25 square feet per façade.

(F) Wall signs shall not extend above the parapet or eave of the building except in cases where pre-existing buildings constructed with mansard roofs may contain wall signage upon the mansard roof that does not extend above the ridge or peak of the roof.

(G) Up to 50 percent of the allowable area of a wall sign may be manual or electronic changeable copy.

5.4.3 Freestanding Sign (on-premises)

A permanent sign that identifies a business or organization or a group of businesses or organizations located on-site that is mounted to the ground.

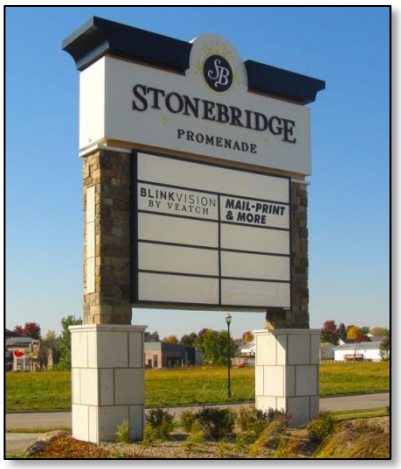
5.4.3.1 District and Size Standards

District	Sign Type Allowed	Max. Area (square feet)	Max. Height (feet)	Max. Number (1-10 tenants)	Max. Number (10+ tenants)
LID	PL	35sf	6	1 per site	2 per site
MID	PL	35sf + 5sf per tenant (up to 65sf)	10	1 per site	2 per site
HID	PL	100sf + 15sf per tenant (up to 200 sf)	20	1 per site	2 per site
CBD	PL	10sf + 5 sf per tenant (up to 25sf)	6	1 per site	2 per site
EID	PL	50sf + 10sf per tenant (up to 150 sf)	20	1 per site	2 per site
SID	PL	35sf + 5sf per tenant (up to 100sf)	20	1 per site	2 per site

P: Sign permitted
L: Illumination Allowed
*: External illumination only

Monument Sign

Encased Pole Sign



Multi-tenant Pylon Sign

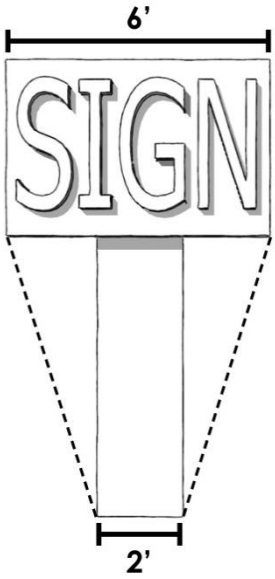
Arm Sign

5.4.3.2 Design Standards

(A) Lots with two (2) or more tenants shall utilize a multi-tenant sign.

(B) Freestanding signs may be monument, arm, pylon, or encased pole style, except that freestanding signs located within the LID and MID zoning districts or within any zoning district in the River District Overlay or CBD zoning district shall be monument or arm style only. Pole signs shall be wrapped in an encasement a minimum of 18 inches wide, and shall not have a top to base ratio of greater than 3:1.

FIGURE 5.3: ENCASED POLE SIGN PROPORTION



(C) Freestanding signs in the Corridor Overlay shall incorporate brick, stacked or mortared stone, or similar material into the base and or columns of the sign.

(D) Freestanding signs in the River District Overlay shall incorporate stacked or mortared stone or similar material into the base and/or columns of the sign. Sand-blasted wood signs are encouraged.

Examples of signs that incorporate stone

(E) Up to 50 percent of the allowable area of a freestanding sign may be manual or electronic changeable copy.

(F) All freestanding signs shall have a minimum of 50 square feet of landscaping around the base of the sign. Landscaping shall include a minimum of eight (8) small shrubs. One (1) medium shrub may be substituted for every two (2) small shrubs. Sign landscaping requirements may also be met by the street yard requirement set forth in Section 4.4.4.

Examples of sign landscaping

5.4.4 Interstate Sign

A tall on-premises monopole sign within 250 feet of the Interstate 40 right-of-way intended to be visible to the traveling public on the interstate.

5.4.4.1 District and Size Standards

District	Sign Type Allowed	Max. Area (square feet)	Max. Height (feet)	Max. Number (per lot)	Other
LID	No	NA	NA	NA	• May only be located within 250 feet of interstate • Min. lot size of 1 acre • Replaces allowable freestanding sign
MID	No	NA	NA	NA	
HID	PL	200	50	1	
CBD	No	NA	NA	NA	
EID	PL	NA	NA	NA	
SID	PL	NA	NA	NA	

Interstate Sign

P: Sign permitted

L: Illumination Allowed
*: External illumination only
NA=Not Applicable

5.4.4.2 Design Standards

(A) Interstate signs shall not have manual or electronic changeable copy.

5.4.5 Special Provisions for Off-Premises Advertising Signs Prior to 10/1/06

Off premise advertising signs legally erected and/or amortized and brought into compliance prior to October 1, 2006 may be reconstructed or replaced with a Digital Billboard under the following conditions:

(A) Applicant must designate and permanently remove four (4) non-conforming off-premises signs located elsewhere within the jurisdiction of the City of Morganton; however, the removed signs cannot include nonconforming off premise signs erected within public rights-of-ways that advertise service clubs, churches and civic organizations.

(B) The digital sign shall not be located closer than:

(1) 500 feet to any other outdoor advertising sign;

(2) 500 feet measured along the roadways to any residential structure;

(3) 250 feet radial to any residential structure not located on the same roadway, or roadways as the sign; and

(4) 50 feet to any free-standing sign.

(C) The maximum size of the sign shall be 300 square feet.

(D) The sign shall conform to all building setbacks, and in the case of a co-location with any principal commercial building and off premises advertising sign on a single lot, the sign shall also comply with a 40 foot spacing requirement from any principal commercial structure.

(E) V-type signs, forming an angle of 35 degrees or less, shall be permitted provided that each panel does not exceed the maximum sign size of 300 square feet.

(F) The maximum sign height shall not exceed 30 feet. For signs located below road grade the sign shall not exceed 30 feet above the nearest adjacent public road elevation.

(G) The images and messages displayed must be static and must remain static for a minimum of eight (8) seconds, prior to being replaced by new images or messages.

(H) Prior to issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 7,500 nits.

5.5 Prohibited Signs

The following signs are prohibited:

5.5.1 Signs that Obstruct Visibility

Signs that substantially interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads or driveways or that obstruct the motorist's view of approaching, merging or intersecting traffic including, but not limited to, signs in excess of three (3) feet in sight triangles.

5.5.2 Signs Emitting Glare

Signs with light sources or reflectivity of such brightness that result in glare, blinding or any other such adverse effect on motorist vision or into or upon any residential building not related to the signs; or which interfere with the effectiveness of, or obscures an official traffic sign, device or signal.

5.5.3 Simulated Public Safety, Warning, or Traffic Signs

Signs by their location, color, illumination, size, shape, nature, message or appearance tend to obstruct the view of or be confused with official traffic, safety or warning signs or lights or other devices erected by governmental agencies. This prohibition includes signs having no bona fide safety necessity, involving the terms "CAUTION", "DANGER", "SLOW", "STOP" OR "YIELD", or which utilize geometric figures, symbols, lights, location or message not unlike official traffic, safety or warning signs, signals or lights. Provided, however, this provision is not intended to prevent the placement on private property of signs with "stop", "yield" or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.

5.5.4 Signs that Obstruct Ingress/Egress

Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.

5.5.5 Snipe Signs

Signs placed upon or attached to any curb, utility pole, post, fence, hydrant, bridge, another sign or other surface, public bench, streetlight, or any tree, rock or other natural object located on, over or across any public street or public property. Provided, however, this provision shall not apply to the posting of public interest, security and warning signs nor to street signs placed upon poles by governmental units for designating the names of streets.

5.5.6 Signs Below Minimum Clearance

Signs, marquees, canopies and awnings with vertical clearance of less than eight (8) feet above sidewalks and pedestrian areas and less than one (1) feet above parking or vehicular passage areas.

5.5.7 Flashing Signs

Signs or devices with flashing, intermittent, animated or changing intensity of illumination, provided, however, traffic signals, railroad crossing signals, other official warning or regulatory signs that present messages of public services shall not be considered flashing signs.

5.5.8 Signs in Rights-of-Way

Any sign erected in or over any public right-of-way except for major special event signs by special permit; and governmental signs.

5.5.9 Obscene Signs

Signs containing words or graphics that are obscene, as defined in North Carolina General Statute 14-190.1.

5.5.10 Signs Without Permission

Signs placed on property without permission of its owners or agent.

5.5.11 Unspecified Temporary Signs

Portable or temporary signs except as permitted by Section 5.3.

5.5.12 Motion Signs

Motion signs, rotating signs, or signs that have mechanical moving parts.

Motion Sign

5.5.13 Facsimile Signs

Three-dimensional objects or human figures which may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.

Facsimile Sign

5.5.14 Roof Signs

Signs erected in whole or in part on, upon or over the roof or parapet of a building or structure and which are wholly or partially dependent upon the roof of the building or structure for support, except in cases where pre-existing buildings constructed with mansard roofs have Wall signage upon the mansard roof which does not extend above the ridge of the roof.

Roof Sign

5.5.15 Un-encased Pole Signs

Signs with a single support pole that is not wrapped in an encasement as set forth in Section 5.4.3, except as permitted for interstate signs as set forth in Section 5.4.4.

Un-encased Pole Sign

5.5.16 Vehicle Signs

Signs placed upon, painted on, attached to or displayed on parked vehicles or trailers, where the primary purpose of the vehicle or trailer is to advertise a product or business or to direct people to a business or activity.

Vehicle Sign

5.5.17 Inflatable signs

Signs inflated with air including balloons having a width, height, depth or circumference of greater than two (2) feet.

Inflatable Sign

5.5.18 Transportable Sign

Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "freestanding" sign as herein defined.

Transportable Sign

5.5.19 Other Signs Not Expressly Permitted

Other signs not expressly permitted in this Ordinance are prohibited.

ARTICLE 6
NONCONFORMITIES

Article 6 Contents

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6.1 Purpose and Applicability

(A) The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. However, this Article is also established to require that nonconforming situations be terminated under certain circumstances.

(B) Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Article.

(C) Many nonconformities may continue, but the provisions of this Article are designed to minimize substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.

(D) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

6.2 Nonconforming Lots

(A) Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of permitted uses table or additional requirements for certain uses.

(B) The construction of a single-family dwelling, and the issuance of a zoning permit for that purpose, shall be permitted on a nonconforming lot in the LID and MID zoning districts even though the lot area and width requirements cannot be met; however, all other applicable zoning regulations shall be met.

(C) Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of paragraph (B) of this subsection.

6.3 Nonconforming Uses

6.3.1 Open Uses of Land

This category of nonconformity consists of lots used for storage yards, motor vehicle sales, auto wrecking, junkyards and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this Ordinance, in the district in which it is located. A legally established non-conforming open use of land may be continued except as follows:

(A) When a nonconforming use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.

(B) A nonconforming open use of land shall be changed only to conforming uses.

(C) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.

(D) When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

6.3.2 Uses of Structures

This category of nonconformity consists of buildings or structures used at the time of enactment of this Ordinance, or any amendment thereto, for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

(A) When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.

(B) A nonconforming use shall not be changed to another nonconforming use unless a Certificate of Nonconformity Adjustment is issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be no less compatible with the neighborhood than the use in operation at the time the permit is applied for, and that the proposed use is of a same or higher classification as the existing nonconforming use. If a nonconforming use is changed to any use other than a conforming use without obtaining a Certificate of Nonconformity Adjustment pursuant to this paragraph, that change shall constitute a discontinuance of the nonconforming use, and shall be subject to penalties as set forth in Section 2.3. The order of classification of uses from highest to lowest for the purpose of this section shall be as follows:

(1) Agricultural uses

(2) Single-family dwellings

(3) Two-family dwellings

(4) Multifamily dwellings

(5) Civic, government and institutional use

(6) Office and service uses

(7) Retail and wholesale

(8) Recreation and entertainment uses

(9) Industrial, transportation, utility uses

(C) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:

(1) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.

(2) Minor repairs to and routine maintenance of property where a nonconforming use exists is permitted and encouraged. Major renovation - i.e., work estimated to cost more than 10 percent but less than 60 percent of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

(3) Expansion of a nonconforming use within a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.

(D) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(E) Nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is nonconforming as to use, provided it is done in conformance with the dimensional requirements of the MID zoning district, nor prevent the maintenance,

repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.

6.3.3 Discontinuance of Nonconforming Uses

(A) When active operation or occupancy of a nonconforming use is discontinued regardless of the purpose or reason for a consecutive period of 180 days, the property involved may thereafter be used only for conforming uses.

(B) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Subsection, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building or one (1) space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the nonconforming use for the required period shall terminate the right to maintain it thereafter.

6.3.4 Discontinuance of Nonconforming Adult Oriented Businesses

Notwithstanding the provisions of Section 6.3.3 above, adult establishments shall be governed by the following:

(A) Any adult establishment that fails to comply with the use and locational requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a nonconformity. Any such business which ceases active operation for a continuous period of 30 days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

(B) Any adult establishment lawfully operating as of the effective date of this Ordinance but which subsequently fails to comply with the use and locational requirements of this Ordinance as a result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a nonconformity. Any such business which ceases active operation for a continuous period of 30 days regardless of purpose or reason shall be subject to all the requirements of this Article and the property may thereafter be used only for conforming uses.

6.4 Nonconforming Structures

This category includes any structure not in conformance with the restrictions of this Ordinance after the effective date of adoption. Such nonconformities shall include, but not be limited to, height, bulk and setback.

6.4.1 Continuation of Nonconforming Structures

Nonconforming structures shall be allowed to remain with the following conditions:

(A) A nonconforming structure may not be enlarged or altered in any dimension that increases the nonconformity except where maintenance and repair are necessary to keep the structure in sound condition.

(B) When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.

(C) When any nonconforming structure is damaged, repair must follow the guidelines listed in Section 6.4.2.

(D) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.

(E) Conforming uses, except Adult Establishments, may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

6.4.2 Reconstruction of Damaged Structures

Any nonconforming structure, or any structure containing a nonconforming use, which has been damaged by fire, wind, flood or other causes, shall not be rebuilt, altered or repaired after damage exceeding 60 percent of its tax value immediately prior to damage with the exception of single family homes or manufactured homes used for residential purposes which may be rebuilt or replaced provided the provisions of the Flood Damage Prevention Ordinance, other City of Morganton ordinances and the conditions below are met:

(A) Repairs are initiated within one (1) year and completed within two (2) years of such damage;

(B) The total amount of space devoted to a nonconforming use may not be increased;

(C) Reconstructed nonconforming structures may not be made more nonconforming by the repairs; and

(D) Where possible, any nonconforming structure shall be repaired or reconstructed in such a manner so as to minimize the nonconformance(s).

(E) The reconstructed structure may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening that reconstruction process or limiting the right to continue the nonconforming use of such building.

(F) The reconstructed structure may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity.

(G) Nothing herein shall prevent the reconstruction of a nonconforming single-family dwelling that was destroyed by fire or natural disaster provided such reconstruction does not expand the footprint in a dimension that is more nonconforming.

6.4.3 Replacement of Nonconforming Manufactured Homes on Individual Lots

A nonconforming manufactured home on an individual conforming lot outside of a manufactured home park and outside of the Manufactured Home Overlay may not be replaced except by a conforming dwelling. A nonconforming manufactured home may not be enlarged or altered externally in any way. Individually established nonconforming manufactured homes may be replaced provided that requirements of Section 3.2.2.3 are met.

6.4.4 Replacement of Manufactured Homes in Nonconforming Manufactured Home Parks

(A) Upon the adoption of this Ordinance all existing nonconforming manufactured home parks shall be become nonconforming. Any new or replacement homes for existing spaces within an existing nonconforming manufactured home park shall meet the following criteria:

(B) The new or replacement manufactured home shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

(C) The new or replacement manufactured home shall have a minimum of 550 square feet of enclosed and heated living area.

(D) The manufactured home shall set up in accordance with the standards established by the North Carolina Department of Insurance and an unpierced, continuous skirting material generally accepted in the manufactured home industry for the purpose of completely obscuring the area underneath the home shall be installed under the perimeter of the manufactured home home.

(E) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the house shall be installed or constructed in accordance with the standards established by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground.

(F) The moving hitch, wheels and axles, and transporting lights shall be removed from the manufactured home.

6.5 Nonconforming Development Sites

6.5.1 Nonconforming Landscaping and Buffering

Any substantial change of use or change in zoning classification or expansion of 20 percent or greater of an existing use, structure, or parking area shall not occur without the requirements of Section 4.4 having been met. The requirements of Section 4.4 shall be met to the greatest extent possible as determined by the Zoning Administrator.

6.5.2 Nonconforming Parking and Access

Any substantial change of use or change in zoning classification or expansion of 20 percent or greater of an existing use, structure, or parking area, which is deficient in the minimum number of parking spaces, parking lot paving, or curb and gutter as set forth in Section 4.6, shall not occur without the requirements of Section 4.6 having been met. The Administrator may approve a new use within an existing structure if the number of off-street parking spaces required for the new use (per Section 4.6 of this Ordinance) is within 10 percent or 10 spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one-time only basis per lot or planned development. The requirements of Section 4.6 shall be met to the greatest extent possible as determined by the Zoning Administrator.

6.5.3 Nonconforming Infrastructure

Any substantial change of use or change in zoning classification or expansion of 20 percent or greater of an existing use, structure, or parking area shall not occur without the requirements of Section 4.7 having been met. Sidewalks shall be installed along all new and existing streets for any such change or development as set forth in Section 4.7.4. The requirements of Section 4.7 shall be met to the greatest extent possible as determined by the Zoning Administrator.

6.5.4 Nonconforming Non-residential Building Design

(A) The standards of Section 4.8 shall apply to expansions of greater than 20 percent of the gross floor area of the building for non-residential buildings in the following locations:

(1) Corridor Overlay in all districts

(2) River District Overlay in all districts

(3) All LID and MID districts

(4) HID districts (for buildings greater than 35 feet tall)

(B) If a nonconforming building is being expanded by greater than 20 percent, then the existing portion of the building shall comply with the following standards:

(1) The primary building material as permitted by Section 4.8.6.7 shall be continued over to 50 percent of the front façade of the existing building.

(2) A minimum of one (1) vertical articulation element listed in Section 4.8.6.4 (A) shall be incorporated into the front façade.

(3) A minimum of one (1) horizontal articulation element listed in Section 4.8.6.5 (A) shall be incorporated into the front façade.

(4) All unscreened mechanical or utility equipment shall be screened per Section 4.8.6.12.

6.6 Nonconforming Signs

Signs that were legally erected and were in place prior to the adoption of this Ordinance but which do not conform to the provisions of this Ordinance are declared nonconforming signs. Signs that were legally erected and that are in place and which conformed to the provisions of this Ordinance at the time erected, but which do not conform to an amendment of this Ordinance enacted subsequent to the erection of said signs also are declared nonconforming signs.

6.6.1 Continuation of a Nonconforming Sign

Nonconforming signs may continue to be utilized in connection with any use or building permitted in this Ordinance only on the following special conditions, limitations, and restrictions:

(A) Only normal maintenance and repair may be performed on a nonconforming sign. Normal maintenance and repair, as used herein, means repainting, changing copy, changing lights, replacing broken glass or other routine work necessary to keep the sign safe, in good repair or neat in appearance. Normal maintenance shall not include major structural alterations or replacements, re-designs or substantial rebuilding of the sign.

(B) A nonconforming sign shall not be enlarged, raised, relocated, or have illumination added.

(C) If damaged, destroyed or permitted to deteriorate to an extent of more than 60 percent of the appraised replacement cost, a nonconforming sign shall not be repaired or replaced, and shall be immediately removed.

(D) Additional signs shall not be allowed nor shall existing signs be enlarged or raised for any business which displays a nonconforming sign.

(E) A nonconforming sign shall not be re-established once the sign structure has been removed.

(F) A nonconforming sign shall not be re-established after the use has been discontinued regardless of reason or intent for 180 days or more.

(G) If a nonconforming sign is blank or advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 180 days after the use has ceased operation or the service or commodity has ceased being offered.

(H) Nonconforming portable and temporary signs shall be removed within 60 days of the effective date of this Ordinance.

6.6.2 Alteration of a Nonconforming Sign

(A) The structural components of a nonconforming sign, including the supports and sign frame, shall not be altered without bringing the sign into conformity with the requirements of Article 5.

(B) The face or display of a nonconforming sign (except for Off-premises Advertising Signs) shall not be altered without bringing the sign into conformity with the requirements of Article 5, except that the nonconforming sign structure may remain in place if a Non-Residential Street Yard meeting the requirements of Section 4.4.4.2 is installed.

6.6.3 Discontinuance of Nonconforming Off-premises Advertising Signs

All nonconforming outdoor advertising signs shall be discontinued or made conforming (amortized) within five and one-half years from the applicable date of this subsection unless explicitly prohibited by the state statue or unless compensation for removal is required by state or federal law. All outdoor advertising signs which are made nonconforming by an amendment to this chapter, or to the Official Zoning Map, or extension of the areas in which this subsection is applicable shall be discontinued or made conforming (amortized) within five and one-half years after the date of such amendment or extension, unless explicitly prohibited by the state statute.

6.7 Certificate of Nonconformity Adjustment

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in this Article.

(A) Application for a Certificate of Nonconformity Adjustment shall be submitted to the Development and Design Services in accordance with Section 2.2.6.

(B) The Board of Adjustment shall conduct a public hearing on the application in accordance with the requirements of Section 2.2.6 in the manner prescribed in NCGS 160A-388.

APPENDIX A
DEFINITIONS

Appendix A Contents

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A.1 Purpose

For the purpose of interpreting this Ordinance, certain words, concepts and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition.

A.2 Interpretation

(A) Words used in the present tense include the future tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular.

(C) Any word denoting gender includes the female and the male.

(D) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

(E) The word "lot" includes the word "plot" or "parcel" or "tract".

(F) The words “shall”, “must”, and “will” are mandatory, implying an obligation or duty to comply with the particular provision.

(G) The word “may” is permissive, except when the context of the particular use is negative, then it is mandatory (e.g., “may not”).

(H) The word “should,” whether used in the positive or the negative, is a suggested guideline.

(I) The word "structure" shall include the word "building."

(J) The term “street” shall include the word “road”.

(K) The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied.

(L) The term “Zoning Map," shall mean the Official Zoning Map of Morganton, North Carolina.

(M) The term "City Council" shall mean the City Council of the City of Morganton, North Carolina."

(N) The term “Planning & Zoning Commission” shall mean the Planning & Zoning Commission of the City of Morganton, North Carolina.

(O) The term 'Board of Adjustment' shall mean the Board of Adjustment of the City of Morganton.

(P) The term "Administrator" shall mean the Administrator, Subdivision Administrator, Floodplain Administrator, or Zoning Administrator City of Morganton, North Carolina.

(Q) The terms "Development and Design Services Department" and "Planning Staff" shall mean the Development and Design Services Department of the City of Morganton, North Carolina.

(R) The term "manager" or "City Manager" shall mean the City Manager of the City of Morganton, North Carolina.

(S) The term "County" shall mean Burke County, North Carolina.

(T) The term "State" shall mean the State of North Carolina.

(U) Any reference to a section shall mean a section of the City of Morganton Zoning Ordinance, unless otherwise specified.

(V) The term "Ordinance" shall be synonymous and refer to the City of Morganton Zoning Ordinance.

(W) For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in Section A.4. Except as defined herein, all other words used in this ordinance, excluding architectural words and terms, shall have their everyday dictionary definition. Architectural words and terms shall be interpreted as defined in the latest edition *A Visual Dictionary of Architecture,* Francis D.K. Ching, John Wiley and Sons, New York., a copy of which is available in the Development and Design Services Department at City Hall.

A.3 Acronyms and Abbreviations

Below is a list of acronyms and abbreviations and their meanings found throughout the Ordinance:

- ADA: Americans with Disabilities Act
- AHS-O: Airport/Heliport Safety Overlay
- BFE: Base Flood Elevation
- BOA: Board of Adjustment
- CBD: Central Business District
- C-O: Corridor Overlay
- DUA: Dwelling Units per Acre
- EID: Exclusive Industrial District
- ETJ: Extraterritorial Jurisdiction
- FDP-O: Flood Damage Prevention Overlay
- FEMA: Federal Emergency Management Agency
- FIRM: Flood Insurance Rate Maps
- HID: High Intensity District
- HOA: Homeowners Association
- LID: Low Intensity District
- LRTP: Long Range Transportation Plan
- MH-O: Manufactured Home Overlay
- MID: Medium Intensity District
- MPO: Metropolitan Planning Organization
- NAICS: North American Industrial Classification System
- NC: North Carolina
- NC-O: Neighborhood Conservation Overlay
- NCDENR: North Carolina Department of Environment and Natural Resources
- NCDOT or DOT: North Carolina Department of Transportation
- NCGS or GS: North Carolina General Statute
- RD-O: River District Overlay
- ROW: Right-of-way
- SID: State Institutional District
- SR: Secondary Road in the North Carolina Secondary Road system
- SW-O: Phase II Stormwater Overlay
- TRC: Technical Review Committee
- US: United States of America
- USGS: United States Geological Survey
- WP-O Watershed Protection Overlay

A.4 Definitions

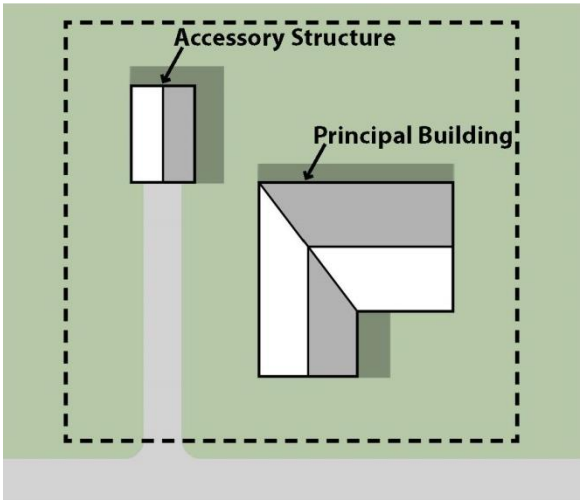
ABANDONED. A use shall be deemed to be abandoned when: a) the use is physically and objectively discontinued [other than in association with the settlement of an estate or for any use which is seasonal in nature]; or b) the premises are devoted to another use; or c) the characteristic equipment and furnishings of a nonconforming nonresidential use have been physically removed from the premises and have not been replaced by the same or similar equipment within thirty days. All of the above events are considered abandonment, regardless of the intent of the owner, lessee or occupant and regardless of any circumstances beyond the control of such parties that prevent continuation of the use.

ACCESSORY COMMUNICATION ANTENNAE. An antennae configuration that is attached to a building water tower, or other existing structure where the communication facility is customarily incidental to the main or principal building or structure.

ACCESSORY DWELLING UNIT. A second dwelling unit connected to or within the rear yard of a single-family residential dwelling, which is restricted in area, purpose and occupancy in accordance with this ordinance.

ACCESSORY STRUCTURE OR USE. A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. Accessory structure shall include freestanding satellite dishes, any other devices that access satellites, and amateur radio antennae.

FIGURE A.1: PRINCIPAL AND ACCESSORY STRUCTURES



ADAPTIVE REUSE. The rehabilitation, reconstruction or renovation of existing buildings or structures for any use other than its current use.

ADJACENT/ABUTTING PROPERTY. This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads, and other rights-of-way do not exist.

ADMINISTRATOR. "See Zoning Administrator"

ADULT ORIENTED BUSINESSES. Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in NCGS 14-202.10 et.seq., but excluding massage therapy.

AGRICULTURAL INDUSTRY. Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries) on more than two acres, commercial fish or poultry hatcheries, and other similar activities.

AIRPORT AND HELIPORT. Landing fields, parking and service facilities, passenger and baggage terminals, and related facilities for the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft. The word aircraft shall include fixed-wing as well as rotary-wing craft.

AIRPORT AND HELIPORT SAFETY OVERLAY DEFINITIONS

Airport. The Foothills Regional Airport.

Airport elevation. The highest point on any usable landing surface expressed in feet above sea level.

Approach, conical, horizontal and transitional zones. The airspace zones as set forth in Section 3.2.5.2.

Hazard to air navigation. An obstruction determined by the Federal Aviation Administration (FAA) to have a substantial adverse effect on the safe and efficient utilization of navigable airspace.

Height. For the purpose of determining the height limits in all zones set forth in subsections (a)(i), (ii), (iii), (iv) and (v) above shown on the Official City of Morganton Airport/Heliport Safety District Maps, the datum shall be mean sea level (MSL) elevation unless otherwise specified.

Helipad. A specified area of the heliport prepared for landing and takeoff of helicopters.

Heliport. The local hospital heliport.

Nonconforming use. Any preexisting structure or object which is inconsistent with the provisions of this subsection of any amendment to this subsection.

Obstruction. Any structure, growth or other object including a mobile object which exceeds a limiting height or penetrates any surface or zone floor.

Permit. A certification issued by the Zoning Administration of the City of Morganton allowing a person to begin an activity in accordance with this subdivision.

Person. Any individual, firm, partnership, corporation, company, association, joint-stock association or government entity. The term includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Primary surface. A surface, longitudinally centered on a runway or helipad at an elevation equal to that of the runway or helipad extending a distance determined appropriate for that particular airport or helipad as set forth within Part 77 of the Federal Aviation Administration (FAA) Manual.

Runway. A specified area on an airport prepared for landing and takeoff of aircraft.

Structure. Any object, including a mobile object, constructing or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles and electric lines overhead transmission routes, flag poles and ship masts.

Vegetation. Any object of natural growth.

Zone. All areas provided for in Section 3.5.2.2, generally described in three dimensions by reference to ground elevation, horizontal distances from the runway centerline and the primary surface and with the zone floor set at specific vertical limits.

ANIMAL SERVICES. Any facility used for the purpose of giving licensed medical treatment to animals or pets and any other customarily incidental treatment of the animals, such as grooming, boarding, or selling of pet supplies. This use may include indoor or outdoor kennels as shown in the Permitted Uses Table.

ALLEY. A service way providing a secondary means of public access to abutting property.

ALTERATION. A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing use.

AMENDMENT. Any change by the City Council to the text of these regulations or the official zoning maps.

AMORTIZATION. A provision requiring a non-conformance to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

AMUSEMENT, COMMERCIAL INDOOR. Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

APPLICANT. Any person seeking approval under these regulations for any form of development or use of land.

ARCHITECT. A person licensed to practice architecture in the State of North Carolina.

ARCADE. A series of porches supported on piers or columns.

ARENA. A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

ARTICULATION, HORIZONTAL. An architectural technique to give provide visual interest and human scale along the horizontal wall plate of a building.

ARTICULATION, VERTICAL. An architectural technique to give emphasis to the height of a building and provide visual interest along the vertical wall plane of a building.

ARTIFICIAL OBSTRUCTION. Any object or material which is not a natural obstruction, including any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of a stream.

ARTIST OR CRAFTSMAN STUDIO. The creation of objects in a studio, made one at a time, by hand. Such creation includes, but is not limited to, woodworking, tinsmithing, silversmithing, pottery throwing, glass blowing, painting, weaving, caning, metal working, and sculpting.

ASPHALT PLANTS, MIXING PLANTS (CONCRETE & ASPHALT). A facility preparing asphalt and/or concrete mixtures for street and driveway paving, including contractors engaged in asphalt and/or cement work. This definition includes poured concrete foundation and structure contractors, and asphalt paving mixture and block manufacturing.

AUCTION HOUSE. Any establishment where items are sold at auction to the highest bidder.

AUDITORIUM, ASSEMBLY HALL. 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 attend lectures, theatrical, musical or other presentations.

AUTOMATIC TELLER MACHINE. A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

AWNING. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans, excluding brokers, financial planners, credit counselors and similar uses that are located in professional offices.

BANQUET AND EVENTS FACILITIES. A facility for lease for private parties. Such facilities may or may not provide catering, photography, or similar services associated with private parties, weddings, birthdays and similar occasions.

BED AND BREAKFAST INN. A residential building providing for temporary overnight lodging and breakfast for overnight guests. This use does not include banquet and events facilities.

BERM. An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

BEST MANAGEMENT PRACTICES (BMPS). (Applies only to the watershed overlay district) A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

BEST MANAGEMENT PRACTICES, NON-STRUCTURAL. Non-structural BMPs are non-engineered methods used to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

BEST MANAGEMENT PRACTICES, STRUCTURAL. Structural BMPs are engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply.

BOARDING OR ROOMING HOUSE. A dwelling, or part thereof, in which lodging is provided to more than two (2) guests on a long-term basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

BODY ART ESTABLISHMENT. A business that provides tattooing or body piercing services.

BONA FIDE FARM. A farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plans, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

(A) A farm sales tax exemption certificate issued by the Department of Revenue.

(B) A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.

(C) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(D) A forest management plan.

(E) A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

BROADCAST TOWERS. A facility primarily engaged in providing radio and television broadcasting but excluding those uses classified as wireless telecommunications towers or utilities.

BUILD-TO LINE. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principal vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

BUILDING. A temporary or permanent structure having a roof and walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods.

BUILDING AREA. The area of a zoning lot remaining after the minimum setback requirements of this ordinance have been satisfied.

BUILDING FOOTPRINT. The outline of the total area covered by a building's exterior walls at the ground level.

BUILDING HEIGHT. See "*Height, Building*."

BUILDING LINES. Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

***BUILDING MODULATION*.** The varying of the footprint of a building by projecting or recessing portions of the façade from the base plane of the building wall.

BUILDING OCCUPANCY. The use(s) or tenant(s) located within a building.

BUILDING PRESENTATION. The direction of the architectural front façade of a building in relation to the street or public space.

BUILDING, PRINCIPAL. See "*Principal Structure.*"

BUILDING SITE. (See also "*Development*.") An area of land or property where development is undertaken. A building site may consist of one or more legal parcels of land and shall be defined to include any and all such parcels developed with uses operating under a coordinated management or use strategy regardless of when such parcels were developed.

BUILDING WALL. The entire surface area, including windows and doors, of an exterior wall of a building.

BUILT-UPON AREA. Built-upon area shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious).

BUSINESS KIOSK. A walk-up or drive-through self-service unit that provides convenience-type services including but not limited ice vending, movie rental, and household propane tanks.

CALIPER. The diameter measurement of a tree-trunk.

CAMPGROUND. Any lot or parcel of land used or intended to be used for the accommodation of two (2) or more recreational vehicles or non-vehicle campers for transient dwelling purposes or recreational camping.

CANOPY. A structure, either detached from or attached to and extending from the enclosed portion of a building, and used principally to provide shelter in connection with activities conducted in the principal building.

CANOPY TREE. A species of tree which normally grows to a mature height of thirty-five feet or more with a minimum mature crown width of thirty feet and meets the specifications of the *American Standards for Nursery Stock* published by the American Nurserymen Association.

CARPORT. A roofed structure enclosed on not more than two sides and used for the parking of motor vehicles.

CAR WASH. A motor vehicle services facility for the washing of motor vehicles.

CEMETERY. Land and facilities, including offices and chapels, used for the burial of the dead. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the state.

CERTIFICATE OF COMPLIANCE. A certificate issued by the Department of Development and Design setting forth that a lot, building, structure, or use complies with the Zoning Ordinance and that the same may be used for the purposes stated therein.

CERTIFICATE OF OCCUPANCY. A certificate issued by the building inspector setting forth that a building, structure, or use complies with all North Carolina State Building Codes in effect within the City's jurisdiction.

CHANGE OF USE, MINOR. A change in the use of a structure or land from one use to another use within the same category as listed in the Table of Uses. For example, a change from a "Retail Use" to a "Restaurant" within the *Retail and Wholesale Uses* category is a minor change of use.

CHANGE OF USE, SUBSTANTIAL. A change in the use of a structure or land from one use category to another use category. For example, a change from a "Professional Office" in the *Office and Service Uses* category to a "Retail Use" in the *Retail and Wholesale Uses* category is a significant change of use.

CHURCH OR RELIGIOUS INSTITUTION. A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship and which may include religious training or study.

CLINIC. An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, psychologists, social workers, or other medical personnel and are not lodged overnight.

CLUB, PRIVATE. A for-profit establishment as defined in N.C.G.S. 18B-1000 (5) which holds an ABC permit from the State of North Carolina. Music, dancing and similar activities may also take place. This definition does not include those establishments that meet the definition of an adult oriented business.

COLLECTOR STREET. See "*Street Classifications*."

COLLEGE OR UNIVERSITY. An institution of higher education offering undergraduate and/or graduate degrees.

CO-LOCATION. The siting of two (2) or more separate operator's wireless antennas on the same support structure.

COMMUNITY OUTREACH OFFICE. An auxiliary or supplemental office facility for non-profit organizations from which to provide general counseling and training services within a specific neighborhood area for individuals and families within close proximity of the facility. Services not allowed include operation of food or clothing pantry's, place of assembly, daycare, family care home or shelter as defined elsewhere in the ordinance.

CONTIGUOUS AREA. Any area which abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

CORNER LOT. See "*Lot, Corner*."

CORRECTIONAL FACILITY. A jail or other institutional facility used to confine or provide treatment or rehabilitation to those accused of violations of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each twenty-four hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station or court facility.

CREMATORY. An establishment either part of or separate from a funeral home or veterinary services establishment that contains a furnace for the purpose of cremating the bodies of deceased persons or animals.

CRITICAL ROOT ZONE. The area under a tree, which includes all land within the drip-line of the tree. The drip-line is measured by a vertical line extending from the outermost portion of a tree's canopy to the ground.

CUL-DE-SAC. A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

CUPOLA. A light structure on a dome or roof, serving as a belfry, lantern or belvedere.

DAY CARE CENTER. Any day-time care arrangement for six (6) or more pre-school age children and/or four (4) or more school-aged children or adults who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four (4) but less than twenty-four hours per day.

DAY CARE HOME. A type of customary home occupation that provides day-time care for five (5) or fewer pre-school age children and/or three (3) or fewer school-aged children or adults who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four (4) but less than twenty-four hours per day.

DECIDUOUS. A plant or tree with foliage that is shed annually.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the county register of deeds. Also known as a restrictive covenant.

DENSITY BONUS. An additional number of residential dwelling units per acre of land permitted when a developer meets specified performance standards.

DENSITY, RESIDENTIAL. The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

DETENTION STRUCTURE. A permanent structure designed for the temporary storage of stormwater runoff in order to reduce the peak rate of discharge from a site.

DEVELOPER. Any person actively engaged in the development of land. See "*Applicant*."

DEVELOPMENT. The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two (2) or more parcels.

(A) Except as provided in subsection (C) hereof, for the purposes of these regulations, the following activities or uses shall be considered "development":

(1) The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;

(2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;

(3) Alteration of the shore or bank of a pond, lake, river, or other waterway;

(4) Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;

(5) Grading or land disturbing activity; or

(6) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(B) "Development" includes all other activity customarily associated with it. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition.

(C) For the purposes of these regulations the following operations or uses shall not be considered "development"; some may, however, require a zoning permit:

(1) Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;

(2) Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;

(3) A change in use of land or structure from a use within a specified category of use to another use in the same category;

(4) A change in the ownership or form of ownership of any parcel or structure;

(5) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required bylaw;

(6) The clearing of survey cuts or other paths of less than four (4) feet in width; or

(7) Timbering or silviculture activity that does not involve land disturbing activity.

DIAMETER AT BREAST HEIGHT (DBH). The caliper of an existing semi-mature or mature tree measured at four and one-half feet above the existing ground on the uphill side of the tree.

DISTURBED AREA. An area subject to erosion due to the removal of vegetative cover and/or earthmoving activities.

DORMER. A projecting structure built out from a sloping roof, usually housing a vertical window or ventilating louver.

DORMITORY. A building containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution and which is co-located with and subordinate to such institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

DOUBLE FRONTAGE LOT. See "*Lot, Double Frontage*."

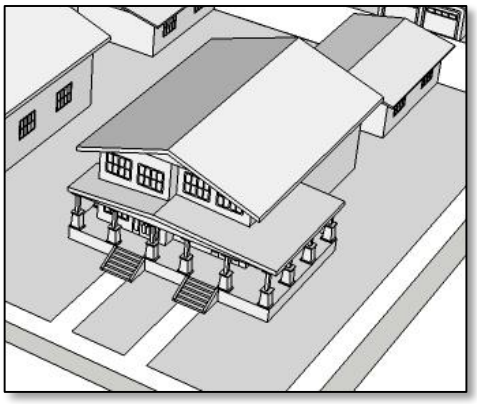
DRIVE-THROUGH/DRIVE-IN USE. A customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable the customer to transact business with a sales or service representative located within the principal structure without exiting the motor vehicle.

DRY CLEANING AND LAUNDRY SERVICES. A building, portion of a building, or premises used for the collection and distribution of dry cleaning or the cleaning of fabrics, textiles, wearing apparel, or articles of any sort without the immersion of such articles in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto. It is intended that uses in this category shall not pose a significant threat to the health and safety of the public or adjacent uses and that such may legally discharge all liquid waste into a public sanitary sewer or private septic system.

DWELLING UNIT. A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family.

DWELLING, TWO-FAMILY. A residential building which contains two (2) dwelling units and which occupies one (1) lot. Also known as a duplex.

FIGURE A.2: TWO-FAMILY DWELLING

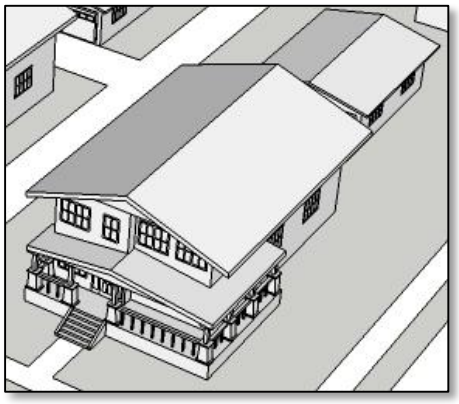


DWELLING, MULTI-FAMILY. A residential building which contains three (3) or more dwelling units. This definition includes condominiums, apartment complexes, and townhomes.

FIGURE A.3: MULTI-FAMILY DWELLING

DWELLING, SINGLE-FAMILY. A residential building which contains one (1) dwelling unit and which occupies its own zoning lot. This term includes modular housing units built to North Carolina Building Standards.

FIGURE A.4: SINGLE-FAMILY DWELLING



EASEMENT. A grant of one or more of the property rights for a specific purpose by the property owner to, or for the use by, the public or another person.

EASEMENT, NEGATIVE ACCESS. An easement, which allows no driveway or other vehicles, access to a lot from an adjacent public street.

ELECTRONIC GAMING OPERATIONS. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. The term includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés, which have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina.

EMERGENCY SERVICES. Government or institutional organizations that respond to emergency situations. These organizations generally provide police, EMT/EMS, ambulance, and firefighting services.

EMERGENCY SHELTER. A facility providing temporary housing for one or more individuals who are temporarily or permanently homeless due to disaster, evacuation or other similar civil emergency.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EQUESTRIAN USE. An establishment where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, or where horses may be hired for riding.

EVERGREEN. A plant or tree with foliage that persists year-round.

EXISTING DEVELOPMENT. (Applies only to the watershed overlay district) Existing development means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating water supply watershed regulations into the Bermuda Run zoning ordinance based on at least one of the following criteria:

(A) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or

(B) Having an outstanding valid building permit; or

(C) Having an approved site specific or phased development plan.

For projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, existing development shall be defined

as those projects that are built or those projects for which a state permit was issued prior to August 3, 1992.

EXISTING LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

EXTERIOR FEATURES. The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

FAÇADE. Any front, side, or rear exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

FAMILY CARE HOME. A facility falling under NCGS 168-22 that is licensed by the State of North Carolina as a family care home with support and supervisory personnel that provide room and board, personal care, and habilitation services in a family environment in a single housekeeping unit for not more than six (6) resident persons, with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others. "Dangerous to others" means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

FARMER'S MARKET. The seasonal selling or offering for sale at retail of vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables.

FACILITY. The buildings or other man-made improvements associated with a land use.

FENCE OR WALL, OPAQUE. A vertical structure which does not allow light to pass through.

FENESTRATION. The design and positioning of windows and doors in a building or structure.

FLAG. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature which represents a country, state, or other political subdivision.

FLEA MARKET. An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open facilities or temporary structures.

FLOOD. A temporary rise in stream flow or stage that results in water over topping stream banks and inundating areas adjacent to the watercourse.

FLOOD BOUNDARY AND FLOODWAY MAP. An official map on which the Federal Emergency Management Agency has delineated both the floodway and floodway fringe areas. Said maps also contain cross section information relevant to both the floodway and floodway fringe areas with data available in official reports supplied by the Federal Emergency Management Agency.

FLOOD LIGHT. A form of lighting fixture designed to direct the output of a contained lamp in a more-or-less specific direction, utilizing reflecting or refracting elements located external to the lamp.

FLOODPLAIN, ONE HUNDRED YEAR. The channel and area abutting a watercourse, which would be covered with water during a 100-year flood as designated by the most recent reports and data provided by the Federal Emergency Management Agency.

FLOODPLAIN, FIVE HUNDRED YEAR. The channel and area abutting a watercourse, which would be covered with water during a 500 year flood as designated by the most recent reports and data provided by the Federal Emergency Management Agency.

FLOODWAY. The portion of the channel and floodplain of a stream designated by the most recent Federal Emergency Management Agency reports and data as adequate to provide passage for the one hundred year flood, without increasing the elevation of that flood at any point by more than one foot.

FLOODWAY FRINGE. An area lying outside the floodway, but within the floodplain.

FLOOR. The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

FLOOR AREA. The sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

FLOOR AREA RATIO (FAR). The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

FOOTCANDLE. One lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the imperial system. One footcandle equals approximately ten (10.8) lux.

FOWL. For the purposes of this Ordinance, fowl included any type of bird kept domestically for food or any other purpose, which includes but is not limited to chickens, turkeys, ducks, geese, ostriches, peacocks, guineas, emus, and similar birds. Small fowl are 15 pounds or less. Large fowl are greater than 15 pounds.

FREEWAY OR EXPRESSWAY. "See Street Classifications."

FRONT LOT LINE. See "*Lot Line, Front*."

FRONT YARD. See "*Yard, Front*."

FRONTAGE, LOT. The lot boundary which coincides with a public street or space.

FRONTAGE, BUILDING. The façade of a structure facing a public street right-of-way or internal development access drive.

FRONTAGE BUILDOUT. The portion of lot frontage which has a building or wall running parallel to it.

FULL CUTOFF LIGHT FIXTURE. A luminaire light distribution where no light is emitted above the horizontal, and where the intensity at eighty degrees from nadir is no greater than 100 candela per 1000 lamp lumens.

FULLY SHIELDED LIGHT FIXTURE. A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

FUNERAL HOME. An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries.

GLARE. The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine (9) holes, each with a tee, fairway, and green, and may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the golf course.

GOLF DRIVING RANGE. An open air golf practice facility.

GOLF, TENNIS, SWIMMING CLUBS, & RELATED USES (PRIVATE). An establishment that provides golf, tennis, and swimming amenities to its members. This definition includes any associated clubhouse, pro-shops, concession stands, locker rooms, restrooms, and similar facilities.

GOLF, TENNIS SWIMMING CLUBS & RELATED USES (PUBLIC). An establishment that provides golf, tennis, and swimming amenities to the general public. This definition includes any associated clubhouse, pro-shops, concession stands, locker rooms, restrooms, and similar facilities.

GOVERNMENT OFFICE BUILDINGS. The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state and local governments.

GRADE. The elevation of the land or land which is level at a specific point.

GRADE, EXISTING. The elevation along the ground surface of a site as recorded in topographic mapping at two foot or four foot contour intervals, on file in the Office of the planning department, or as surveyed and mapped at a contour interval of not more than four feet, by a licensed surveyor.

GRADE, FINISHED. The elevation at the top of the ground, walk, or terrace where the ground, walk, or terrace intersects the exterior walls of a structure or the vertical supports of a sign.

GREENHOUSE OR HORTICULTURAL NURSERY. An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, and other garden supplies to the general public.

GREENWAY. A linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage. Greenways often link areas of activity, such as parks, cultural features, or historic sites with each other and with populated areas.

GROUND COVER. Any plant material that reaches an average height of not more than twelve inches.

HANDICAPPED PERSON. A person with a physical or mental impairment which substantially limits one or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance. This definition includes children, but does not include persons who are dangerous to others as defined by G.S. 122C-3.11(b).

HAZARDOUS MATERIAL. Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Hazardous Substances;

Section 311 of the Clean Water Act (CWA) (oil and hazardous substances); or any solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

(A) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HAZARDOUS MATERIALS TREATMENT FACILITY. A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material so as to neutralize such material or render it non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

(A) A facility which manufactures hazardous materials from component non-hazardous materials;

(B) A facility or location for the long term or perpetual storage of hazardous materials; or

(C) A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

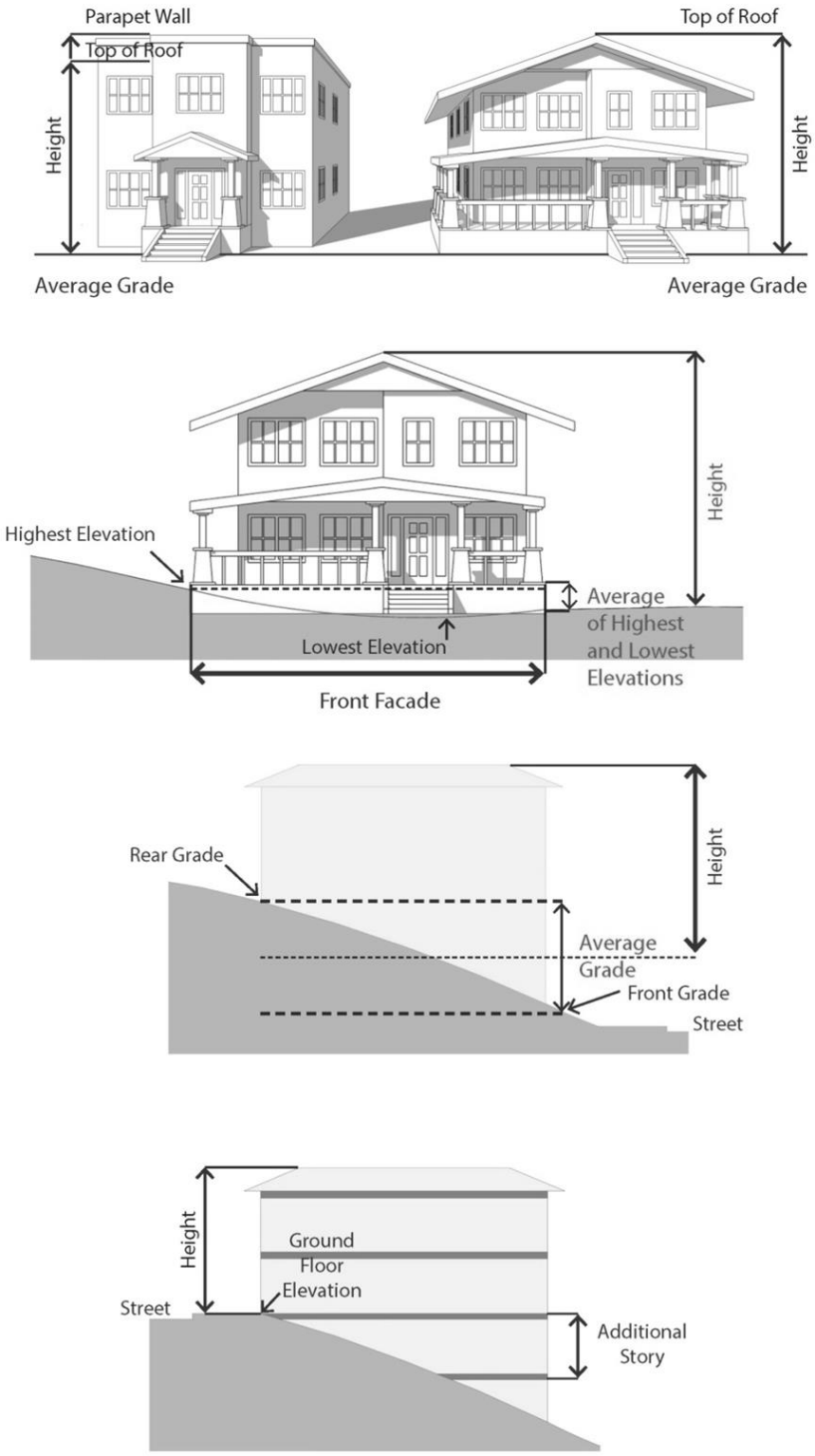
HAZARDOUS SUBSTANCE. Any chemical defined as a physical hazard or a health hazard under standards of North Carolina Administrative Code 7C.0101(a)(105). Physical hazards include, but are not limited to, chemicals, which are combustible, explosive, flammable, and reactive. Health hazards include, but are not limited to, chemical, which are carcinogens, toxins, corrosives, or irritants.

HAZARDOUS WASTE MANAGEMENT FACILITY. Any commercial hazardous waste facility which accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for its own use. A hazardous waste facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. This definition includes hazardous materials treatment facilities as defined herein.

HEIGHT, BUILDING. The vertical distance measured from the average elevation of the finished grade of all sides of a building, measured at the midpoint of each side, to the topmost elevation of the roof or to the topmost projection of the building above any roof, including

parapet walls. Enclosed penthouses or equipment rooms are considered a part of the building and included in the calculation of building height.

FIGURE A.5: HEIGHT MEASUREMENTS



HOME OCCUPATION, CUSTOMARY. A business, profession, occupation, or trade which is conducted within a residential dwelling for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building. This definition includes day care homes and does not include tattoo and/or body piercing operations.

HOME OCCUPATION, INTENSIVE. A business, profession, occupation, or trade which is conducted within a residential dwelling or residential accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building. This definition includes home occupations that provide the following services: "animal services (no outdoor kennels)", "artists, craftsmen", "personal service uses", "professional offices", and "services, other (no outdoor storage)".

HOSPITAL. A facility providing medical, psychiatric, or surgical services for sick or injured persons, including emergency treatment, diagnostic services, training, research, and administration.

HOTEL. A building containing more than five (5) individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Hotels may or may not provide onsite parking and access to hotel rooms is generally provided through interior hallways.

IMPERVIOUS SURFACE COVER. Any structure or material which significantly reduces or prevents natural absorption of stormwater into the soil. Impervious surface cover includes any built upon area including, but not limited to, buildings or other structures with roofs, sidewalks, driveways, parking lots, streets, and any concrete, stone, brick, asphalt, or gravel surface. For purposes of calculating impervious surface coverage requirements pursuant to the zoning ordinance, wooden slatted decks and the water area of a swimming pool are considered pervious.

IMPROVEMENT. Any structure or constructed feature not included under the definition of structure.

INFILL DEVELOPMENT. The construction of a building or buildings on a vacant parcel of than two (2) acres or less located in a predominately built up area.

INSTALLED. The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

JAIL. A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

JUNKYARD, SALVAGE YARDS, & RECYCLING OPERATIONS. The use any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof regardless of whether such material is for sale or recycling.

KENNEL, INDOOR. A use within a fully-enclosed structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

KENNEL, OUTDOOR. A use outside of a fully-enclosed structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot.

LANDFILL, CONSTRUCTION AND DEMOLITION. A landfill which accepts construction or demolition debris or waste including solid waste from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID). A landfill that is limited to receiving land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

LANDFILL, SANITARY. A facility for the disposal of all types of solid wastes, excluding hazardous wastes or toxic substances.

LANDSCAPING. The installation and maintenance of trees, shrubs, plant materials, and/or ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel.

LARGE TREE. A tree whose height is greater than thirty-five feet at maturity and meets the specification of the *American Standards for Nursery Stock* published by the American Association of Nurserymen.

LANDSCAPE ARCHITECT. A person licensed to practice landscape architecture in the State of North Carolina.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

LIGHT TRESPASS. Light falling where it is not wanted or needed, typically across property boundaries.

LINEAR FRONTAGE. The length of a property abutting a public right-of-way from one side lot line to another.

LINTEL. A beam supporting the weight above a door or window opening.

LIVESTOCK. Domesticated four-legged mammals including but not limited to cows, horses, sheep, goats, llamas, swine, rabbits and similar animals. Small livestock are 15 pounds or less. Large livestock are greater than 15 pounds.

LIVESTOCK SALES AND AUCTIONS. A commercial establishment where livestock are collected for sale or auction.

LOGO. A business trademark or symbol.

LOT. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in these regulations.

LOT, ADJACENT. See "*Adjacent Property*."

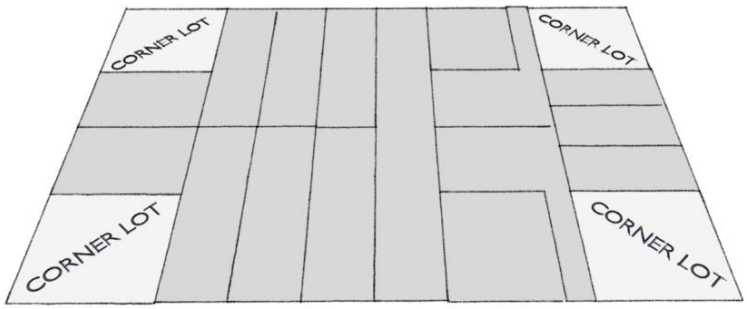
LOT, CORNER. A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one hundred thirty-five degrees.

LOT COVERAGE. That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

LOT TYPES

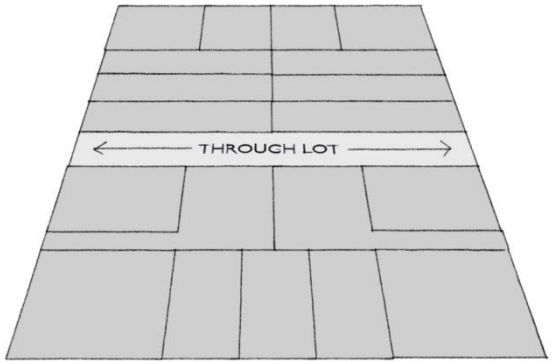
Corner Lot. A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lines to the lot meet at an interior angle of less than 135°.

FIGURE A.6: CORNER LOT



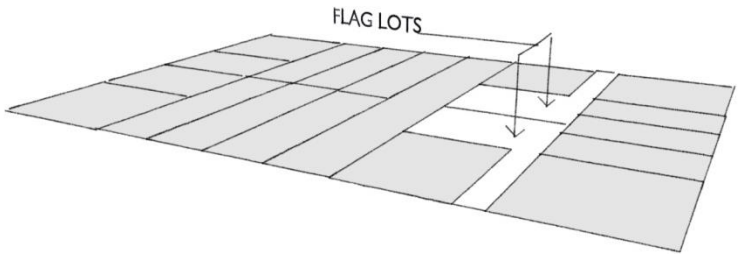
Lot, Double Frontage Or Through. A lot having frontage and access on two or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three or more streets.

FIGURE A.7: THROUGH LOT



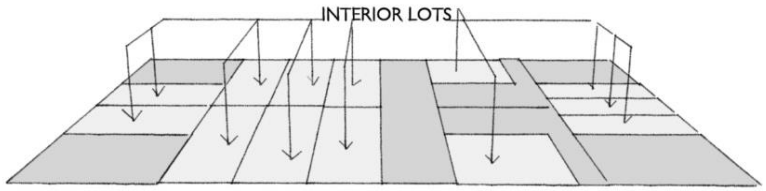
Flag Lot. An irregularly shaped lot where the building portion of the lot is connected to its street frontage by an arm or pole of the lot. The pole portion does not meet the minimum lot width of the district, but the building portion of the lot does.

FIGURE A.8: FLAG LOT



Interior Lot._A lot other than a corner lot with frontage on only one (1) street.

FIGURE A.9: INTERIOR LOT



LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. In the case of an interior lot, the lot line separating said lot from the street. In the case of a corner lot or through lot, the lot line separating said lot from the street that is designated as the fronting primary street in the request for a permit.

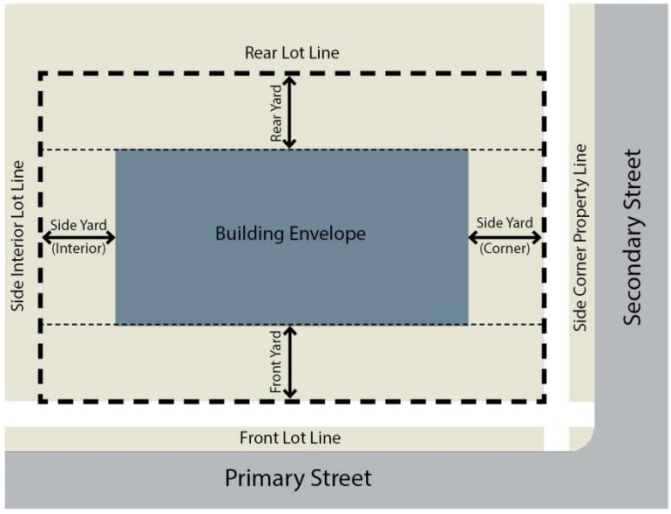
LOT LINE, INTERIOR. A side lot line, which separates one lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the zoning administrator shall designate the rear lot line.

LOT LINE, SIDE CORNER. A lot line other than a front or rear lot line that abuts a secondary street right-of-way.

LOT LINE, SIDE INTERIOR. A lot line other than a front or rear lot line that does not abut a street right-of-way.

FIGURE A.10: LOT LINES



LOT OF RECORD. A lot described by plat or by metes and bounds which has been recorded in the office of the Burke County register of deeds.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOT, ZONING. A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under a single development plan.

MAINTAINED EASEMENT. A recorded right of way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by vehicles

MANUFACTURED HOME. A dwelling unit that: a) is not constructed in accordance with the standards of the North Carolina State Building Code for one and two family dwellings; b) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; c) meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction; and d) satisfies the additional criteria of Section 3.2.2.

MANUFACTURED HOME PARK. A lot of record containing two (2) or more spaces leased or intended for occupancy by manufactured homes used as residential dwellings regardless of whether such homes are provided as part of the lease and including all uses accessory to the residential use. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

MANUFACTURED HOME SPACE. The land in a manufactured home park allotted to or designated for the accommodation of one manufactured home.

MANUFACTURING, PROCESSING, & ASSEMBLY, TYPE A. A manufacturing establishment inside a fully-enclosed building primarily engaged in the fabrication or assembly of products from pre-structured materials or components. Because of the nature of its operations and products, Type A manufacturing produces little or no noise, odor, vibration, glare, and/or air and water pollution outside of the facility, and, therefore, has low impact on surrounding properties. This definition includes apparel manufacturing, transportation equipment, wood kitchen cabinet and countertop manufacturing, other miscellaneous manufacturing, motorcycle, bicycle and parts manufacturing, furniture and related product manufacturing, computer and peripheral equipment manufacturing, communications equipment manufacturing, audio and video equipment manufacturing, electric lighting equipment manufacturing, electrical equipment manufacturing, medical equipment and supplies manufacturing, food manufacturing, printing and related support activities.

MANUFACTURING, PROCESSING, & ASSEMBLY, Type B. A manufacturing establishment inside or outside a fully-enclosed building primarily engaged in the manufacture of products from extracted or raw materials, the assembly of large or heavy machinery, and the storing or using

of flammable, explosive, hazardous, or toxic materials in the manufacturing processes. Because of the nature of its operations and products, Manufacturing, Processing, and Assembly Type B may impact surrounding properties due to noise, odor, vibration, glare, and/or air and water pollution. this definition may include paper manufacturing; tobacco manufacturing; leather product manufacturing; lumber and wood product manufacturing; plastics product manufacturing; primary metal manufacturing; textile and fabric finishing and fabric coating mills; leather and hide tanning and finishing; engineered wood product manufacturing; pulp, paper and paper board mills; petroleum and coal products manufacturing; chemical product and preparation manufacturing; rubber product manufacturing; clay and glass product manufacturing (other than artists and craftsmen); mineral product manufacturing, commercial and service industry machinery manufacturing; and transportation equipment manufacturing.

MASSAGE AND BODY WORK THERAPY. Any massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, G.S. 90-621 et.seq., provided by a person licensed as provided therein to perform such therapy.

MASSING. The shape and form a building or assemblage of buildings assumes through architectural design.

MEAN SEA LEVEL. The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the flood insurance rate maps for Burke County are referenced.

MEDICAL OFFICES. An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for such practice by the state. This definition includes physicians, dentists, chiropractors, opticians, ophthalmologists, psychiatrists, psychologists, and other health practitioners.

MICROBREWERIES AND WINERIES. Establishments where beer and/or wine are brewed and fermented and may be sold and consumed on the premises.

MINING AND QUARRYING OPERATION. An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

MIXED-USE BUILDING. The combination of both commercial and residential uses within a single building of two (2) or more stories.

MIXED-USE DEVELOPMENT. A planned development where two (2) or more use categories (commercial, residential, industrial, institutional, etc.) are incorporated on a single development site.

MOBILE HOME. See "*Manufactured Home*."

MOBILE HOME PARK. See "*Manufactured Home Park*."

MODULAR HOME. A dwelling unit which is constructed in compliance with the North Carolina State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation or other acceptable means established by the North Carolina State Building Code.

MOTEL. A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Motels provide on-site parking and access to most rooms is provided directly from a parking area.

MOTOR VEHICLE. Any vehicle which is self-propelled and every vehicle designated to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term motor vehicle shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

MOTOR VEHICLE AND BOAT SERVICES. An establishment engaged in providing mechanical, automotive, marine, fuel, maintenance, and repair services. This use includes service stations, body work or painting, gas stations, motor vehicle and boat repair, and car washes. Outdoor storage associated with such uses may be permitted as indicated in the Permitted Uses Table.

MOTOR VEHICLE OR BOAT SALES OR RENTAL. Any use where automobiles, boats, or other motor vehicles are stored and/or displayed for the purpose of sale or lease as an entire or complete unit.

MOTOR VEHICLE STORAGE YARD. An outdoor area for the storage of more than one (1) wrecked, damaged, or inoperative motor vehicle awaiting insurance adjustment, major body work, or other repair, or other disposition. This definition does not include motor vehicle parts (used), waste materials, recyclable material, merchant wholesalers, automotive parts and accessories stores, or tire dealers.

MOTION PICTURE PRODUCTION. A business or organization that primarily engages in the filming of motion pictures or movies.

MULTIPLE BUILDING SITE. A group of two (2) or more nonresidential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking, and service areas.

MULTI-FAMILY. See "*Dwelling, Multi-family*."

MUSEUM OR ART GALLERY. A structure used for the display and preservation of paintings, sculpture, and other constructed or natural objects illustrating human or natural history.

NATURAL GAS DISTRIBUTION LINES & RELATED APPURTENANCES. Utility lines and related structures that direct natural gas to individual sites.

NATURAL OBSTRUCTION. Any rock, tree, gravel, or similar natural matter which is an obstruction and has been located within the floodway by a nonhuman cause.

NET ACREAGE. The remaining area after deleting all portions for proposed and existing streets within a development parcel or subdivision. For parcels including recreational facilities and outdoor display lots, the area devoted to the special use shall also be excluded from the net acreage.

NONCONFORMING LOT. Any lot of record which does not meet the dimensional requirements established in these regulations as adopted or amended.

NONCONFORMING STRUCTURE. Any structure which does not comply with all of the standards and regulations of this ordinance as adopted or amended.

NONCONFORMING USE. Any use of land or buildings which does not comply with all of the regulations of this ordinance as adopted or amended.

NONRESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

OFF-STREET PARKING. Parking which occurs on a lot and not on a street or other public right of way.

OFFICE. A use or structure in which business or professional services are conducted or rendered.

OPEN SPACE. Land used for recreation, natural resource protection, amenities, protection of important rural and City vistas and/or buffer yards. Open space may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

OPEN SPACE, COMMON. Open space within a development not in individually owned lots, which is designated and intended for the common use or enjoyment of the residents of the development or the public at large.

OUTDOOR DISPLAY. An area for displaying large items on a regular basis that are for sale or rent outside of a fully enclosed building. Large items include storage buildings and equipment.

OUTDOOR LIGHTING. Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

OUTDOOR STORAGE. Any area which contains outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations, but excluding temporary construction and related activities and closed bay docks.

OUTPARCEL. A separately leased or owned lot developed apart from but linked functionally to a larger development site.

OWNER. Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or parcel of land.

PACKAGE SEWER TREATMENT PLANT. A pre-fabricated set of devices used in the storage, treatment and ultimate discharge or reclamation of sanitary sewer or industrial wastes of a liquid nature.

PARAPET WALL. A building wall which extends to or above a flat roofed platform or building roof.

PARCEL. See "*Lot*."

PARK (PUBLIC). Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

PARKING, LOT OR DECK. A principal or accessory use of a zoning lot with or without a parking structure for use as a place for the temporary or long-term parking of motor vehicles.

PAWN SHOP. An establishment at which a pawnbroker, as defined in NCGS § 91A- 2, regularly conducts business.

PEDESTRIAN ORIENTED DEVELOPMENT. Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which equally balance the need of the pedestrian and car.

PERENNIAL STREAM. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions and identified on seven and one-half minute United States Geological Survey Quadrangle Maps by solid blue lines.

PERFORMANCE STANDARDS. A set of landscaping, open space, parking, infrastructure and building design development standards for residential development seeking density bonuses or for non-residential development in the Corridor Overlay, River District Overlay, Low Intensity District, Medium Intensity District, or buildings greater than 35 feet tall in the High Intensity District.

PERSONAL SERVICES. An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, massage therapy, aesthetician, nail salon, or similar uses, but shall not include any use which may be defined as adult entertainment.

PERVIOUS SURFACE COVER. A surface cover that presents an opportunity for precipitation to infiltrate into the ground.

PLAN, PLOT. A drawing submitted for review with a Zoning Permit application for the construction of a single-family or two-family dwelling.

PLAN, SITE. A drawing or set of drawings submitted for review for the development of multi-family residential or non-residential development.

PLAN, SKETCH. A preliminary drawing preceding a site plan to facilitate discussion between a developer and Development and Design Services Department staff.

PLANNED DEVELOPMENT. A shopping center, commercial subdivision, business park, mixed use development, or similar development that is developed in accordance with a site-specific development plan and contains unifying characteristics such as site design, building design, and/or sign design.

PLANTING YARD. Area where required plantings are located.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

POST OFFICE. A facility or structure used for the collection, sorting, and distribution of mail within several zip code areas, having retail services for the general public, such as stamps, postcards, or postal insurance.

POSTAL FACILITY, NEIGHBORHOOD. A facility that has: distribution boxes (cluster boxes) and collection services for the general public; no mail carriers or retail services; and, is located in a neighborhood where most of the users are within walking distance of the facility, or live in the neighborhood.

POWER GENERATION/PRODUCTION FACILITIES. Facilities involved in the production and generation of electricity by, but not exclusive to, fossil fuels, wind, water or sun.

POWER GENERATION/PRODUCTION, SOLAR (INDIVIDUAL USE). Any means by which electricity is generated from the sun and the use of photovoltaic cells for use by an individual property and does not generate electricity for other users.

POWER GENERATION/PRODUCTION, SOLAR (FARM). Any means by which electricity is generated from the sun and the use of photovoltaic cells for sale to other users not located on the property.

POWER GENERATION/PRODUCTION, WIND (INDIVIDUAL USE). Any means by which electricity is generated by wind turbines for use by an individual property and does not generate electricity for other users.

POWER GENERATION/PRODUCTION, WIND (FARM). Any means by which power is generated and produced by wind turbines for sale to other users not located on the property.

PREMISES. See "*Lot*."

PRINCIPAL BUILDING OR STRUCTURE. A building or structure containing the principal use of the lot.

PRINCIPAL USE. The primary purpose or function that a lot serves or is proposed to serve.

PRODUCE STAND (PERMANENT) Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

PRODUCE STAND (TEMPORARY). 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.

PROFESSIONAL OFFICES. An establishment primarily engaged in providing: engineering, architectural, and surveying services; accounting, auditing, and bookkeeping services; public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies. This definition includes newspaper, periodical, book, and database publishers; software publishers; securities and commodity contracts intermediation and brokerage; insurance carriers; agencies, brokerages, and other insurance related activities; real estate agents and brokers; legal services; accounting, tax preparation, bookkeeping, and payroll services; architectural, engineering and related services; computer system design and related services; management, scientific and technical consulting services; advertising and related services (except display advertising); management of companies and enterprises; and travel arrangement and reservation services.

PROJECT AREA. Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations. See "*Development*."

PROPOSED RIGHT-OF-WAY LINE. The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by: a) the thoroughfare's classification; and b) dimensional requirements or location criteria as established in the Subdivision Ordinance.

PROTEST PETITION. A petition, authorized by state law, submitted to the City council by adjacent property owners in opposition to a proposed zoning amendment.

PUBLIC. Under the control or responsibility of a governmental entity on behalf of the general population, rather than individual or private control.

PUBLIC WORKS FACILITY. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the N.C. Utilities Commission. This definition does not include pump stations, lift stations, water towers, utility substations or similar appurtenances.

QUALIFIED PROFESSIONAL. A professional licensed and/or registered in the state of North Carolina performing services only in their areas of competence. This term shall include only registered land surveyors, registered engineers, registered architects, and registered landscape architects.

RAIL TERMINAL OR YARD. A railway facility where trains regularly stop to load or unload passengers or freight.

REDEVELOPMENT. The demolition and reconstruction of a building or a portion of a building.

REAR LOT LINE. See "*Lot Line, Rear*."

REAR YARD. See "*Yard, Rear*."

RECREATIONAL FACILITY ASSOCIATED WITH A RESIDENTIAL DEVELOPMENT. An area or facility designed to meet the demand for active recreation, including play fields, ball diamonds, parks with picnic and playground equipment, golf courses, tennis courts, swimming pools, tot lots and similar uses, available to the residents of the development in which it is located.

RECREATION FACILITIES, INDOOR. Establishments engaged in providing indoor recreation services. Such may include public or private health or exercise clubs, gymnasiums, spectator sports facilities, tennis or other racquet courts, swimming pools, YMCA's, YWCA's, bowling alleys, skating rinks, or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

RECREATION FACILITIES, OUTDOOR. Establishments engaged in providing outdoor recreation services such as golf driving ranges separate from a golf course, miniature golf, skateboard parks, waterslides, batting cages, and outdoor spectator sports that are located outside of a public park which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation shall include any accessory uses, such as snack bars, pro shops, and field houses which are designed and intended primarily for the use of patrons of the principal recreational use.

RECREATIONAL VEHICLE. A vehicle type accommodation, other than a manufactured home, designed as temporary accommodations for travel, vacation, or recreational purposes, which is propelled by its own motive power or is mounted on or drawn by another vehicle.

RECYCLING CENTER. A facility at which recovered resources, such as newspapers, glassware, and metal and aluminum cans, are collected, stored, flattened, crushed, or bundled within a completely enclosed building. This use does not include motor vehicle parts, used merchant wholesalers, NAICS group 423140, which is listed as a separate use.

RELIGIOUS INSTITUTION. A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship and which may include religious training or study.

RESEARCH FACILITY. An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, medical laboratories, metallurgical testing, and industrial X-ray inspection services, etc.

RESIDENTIAL BUILDING. A building which contains one (1) or more dwelling units.

RESIDENTIAL CARE FACILITY. A licensed multi-unit facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities, as well as significant social facilities to meet the needs of elderly, handicapped, or ill persons. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C-3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization. This definition does not include "Family Care Homes".

RESIDENTIAL SHELTER. A use for the housing of homeless or displaced persons that may provide beds, bathing facilities, and eating facilities.

RESTAURANT (WITH DRIVE-THROUGH SERVICE). An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE). An establishment, which serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RETAIL. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL, OUTSIDE FULLY ENCLOSED BUILDING. An establishment that sells or rents large items which require outdoor display including manufactured homes, storage buildings, heavy equipment, and similar items.

RIGHT-OF-WAY. The legal right of public passage, especially vehicular, over land.

ROOF LINE. The highest point of a flat roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

ROOF PITCH. A comparison of the vertical rise to the horizontal run of a roof structure above a building.

ROOT PROTECTION ZONE. Generally eighteen to twenty-four inches deep at a distance from the trunk equal to one-half of its height or to its drip line, whichever is greater.

SATELLITE DISH. A type of receive-only antenna, which is dish-shaped and is used to receive satellite signals, primarily television transmissions.

SENSITIVE AREA. An area not suitable for development which includes the occupancy of animal and plant habitats that are rare and valuable due to their special role in an ecosystem, which could be disturbed by human activities and development. These areas are known to include wetlands, floodplains, and geologically hazardous sites.

SERVICE ROAD. A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

SEWAGE COLLECTION LINES, PUMP STATIONS, & APPURTENANCES. Utilities that collect and direct sewage/wastewater to sewage treatment plants.

SEWAGE TREATMENT PLANTS. Facilities involved in the process of removing contaminants from wastewater and household sewage.

SCHOOL, ELEMENTARY AND SECONDARY. A public or private school providing instruction to students in kindergarten through grade twelve.

SCHOOL, INSTRUCTIONAL. Private institutions for instruction in activities including but not limited to dance, visual art, performing arts, music, martial arts, sports, sewing, and similar activities.

SCHOOL, PRIVATE. A structure used primarily by and for any two (2) or more age or grade levels not operated by the public school system, but registered with the North Carolina Department of Public Instruction. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

SCHOOL, PUBLIC. A structure used primarily by and for any two (2) or more age or grade levels in grades kindergarten through twelve and operated by the public school system or approved

by the North Carolina department of public instruction as meeting the requirements of state law. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

SCHOOL, TRADE AND VOCATIONAL. A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or elementary or secondary school.

SCREENING. A fence, wall, hedge, landscaping, buffer area or any combination of these provided to visually shield or obscure one abutting or nearby structure or use from another.

SERVICES, OTHER. An establishment primarily engaged in providing a service(s) to businesses and individuals that are not otherwise listed in the Permitted Uses Table. All equipment and goods are stored inside a fully-enclosed building, unless outdoor storage is permitted in the zoning district in which the use is located. This definition includes office support services, services to buildings and dwellings, machinery and equipment motor vehicle body repair and maintenance, personal and household goods repair and maintenance, masonry contractors, glass and glazing contractors, roofing contractors, siding contractors, electrical contractors, plumbing, heating, air-conditioning contractors, building equipment and other machinery installation contractors, drywall and insulation contractors, painting and wall covering contractors, floor contractors, tile and terrazzo contractors, finish carpentry contractors, public utility and transportation construction contractors, all other special trade contractors.

SETBACK. The minimum required horizontal distance between a structure and the lot line or street centerline.

SETBACK, ESTABLISHED. The setback established by existing structures along a block front.

SETBACK, REQUIRED. The setback required by this ordinance.

SHADE TREE. Usually a deciduous tree, rarely an evergreen, planted primarily for its high crown of foliage or overhead canopy.

SHOOTING RANGE, INDOOR. The use of a completely enclosed structure for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOOTING RANGE, OUTDOOR. The use of land for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOPPING CENTER. A building or group of buildings with two (2) or more uses, either connected or freestanding, which is designed with common parking, pedestrian movement, ingress and egress, and used for the sale of merchandise or services to the public. Shopping centers shall be construed to include all out-parcels, whether or not developed, and shall permit any permitted within the zoning district in which it is located except for those uses that require outdoor storage.

SHRUB. A woody, branching plant of relatively low height.

SIGHT DISTANCE TRIANGLE. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line a distance away from the intersection that varies based on the width of the intersecting rights-of-way.

SIGN. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SIGN AREA. The entire area of a sign within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter.

SIGN FACE. That part of the sign that is or can be used to identify, advertise, or communicate information or that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member, or other part of the sign when such is designed or used, including the use of color or lighting, to attract the attention of the public.

SIGN HEIGHT. The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

SIGN STRUCTURE. The frame supporting a freestanding sign, wall sign, projecting sign, suspended sign, portable sign, marquee sign, or roof sign and poles or supports used to elevate or support the frame.

SIGN TYPES. See Article 5 for descriptions of all sign types.

SIGNIFICANT TREE. Any tree other than a pine tree with a caliper of 18 inches or more.

SITE PLAN. A scaled plan showing uses and structures proposed for a parcel of land as required by this ordinance, which includes lot lines, streets, building sites and buildings, reserved open space, major landscape features (natural and manmade), and the location of proposed utility lines when applicable in addition to other features which may be required by this ordinance.

SMALL TREE. A tree whose height is less than thirty-five feet at maturity and meets the specifications of *American Standards for Nursery Stock* published by the American Association of Nurserymen.

SOCIAL, FRATERNAL, AND PHILANTHROPIC CLUB OR LODGES (NON-PROFIT) A building or land used for the activities of a non-profit private club or social organization and not adjacent to, operated as, or in connection with a public tavern, cafe, or other place open to the public.

SOLID WASTE. Any hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

(A) Fowl and animal fecal waste;

(B) Solid or dissolved material in any of the following:

(1) Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters,

(2) Irrigation return flows; or

(3) Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under NCGS 143-215.1 by the Environmental Management Commission;

(C) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;

(D) Any radioactive material as defined by the North Carolina Radiation Protection Act (NCGS 104E-1 through 104E-23); or

(E) Mining refuse covered by the North Carolina Mining Act (NCGS 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under NCGS 143B-290).

SPECIMEN TREE. A specimen tree is a tree (or group of trees) that may be considered important community assets due to their unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance and may also meet the following criteria:

(A) Large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pines sp.) in good or better condition with a DBH of twenty-four inches or greater.

(B) Smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of 12 inches or greater

(C) Lesser-sized trees of rare species or special intrinsic value as approved by the City.

SPOT LIGHT. A lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp.

STEALTH TELECOMMUNICATIONS ANTENNAE. Telecommunications antennae which are housed within a building or on a structure so that the antennae are disguised as some other permitted structure or use.

STORAGE TANKS, ABOVE GROUND. Storage tanks located above ground which are accessory to industries or businesses in their operations and are used to store chemicals, fuels, water, and other liquids and materials.

STORAGE TANK, WATER. A standpipe or elevated tank used to store a supply of water or to maintain equal pressure on a water system.

STORY. That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof.

STREAM BUFFER. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The stream buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

STREET. A right-of-way for vehicular travel.

STREET CLASSIFICATIONS.
The following street classifications are intended to define the street types shown on the City of Morganton Thoroughfare Classification Map:

Expressway. A controlled access federal and/or state highway with grade-separated intersections designed primarily for the high-speed movement of very large volumes of vehicular traffic from one area or region to another.

Major Arterial. A limited access federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another. Also referred to as a major thoroughfare.

Minor Arterial. A state or local road designed for the movement of traffic from one area of the City to another. Also referred to as minor thoroughfare.

Collector. A state or local road designed primarily to connect local streets with arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

Local. Those streets whose primary function is to provide direct access to individual properties.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the City of Morganton or the State of North Carolina.

STREET, STUB. A non-permanent dead-end street intended to be extended in conjunction with the subdivision or development of adjacent land.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. See "*Building Presentation*."

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the City of Morganton, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the City of Morganton; or has otherwise been established as a public street prior to the adoption of this ordinance.

STREET VISTA. A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

STREETSCAPE. An area within a street's right-of-way that may contain sidewalks, street furniture, landscaping or trees, and similar features.

STRUCTURE. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction; however, it does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

SUBDIVIDER. Any person, firm, corporation, or entity who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

(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 are equal to or exceed the standards of the City of Morganton Subdivision Ordinance;

(B) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(C) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;

(D) 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 City of Morganton Subdivision Ordinance;

(E) The division of land into plots or lots for use as a cemetery; and

(F) Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance or the City of Morganton Subdivision Ordinance.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds fifty percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing state or City code specifications necessary to insure safe habitation of the structure.

SURVEYOR. A person licensed to practice surveying in the State of North Carolina.

TAXICAB SERVICE. A facility for the storage, maintenance, and dispatch of taxis, and associated customer ticketing and waiting areas.

TELECOMMUNICATION LINES & RELATED APPURTENANCES. Any utility line, conductor, or other conduit by which audio, visual, or computer information is transmitted.

TELECOMMUNICATION TOWER. A structure either freestanding or attached to a building, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and primary and accessory equipment related to broadcast services, cellular or digital telephone services, pagers, beepers, data, and common carriers (as regulated by the Federal Communications Commission), including FM, AM, two-way radio, fixed point microwave, commercial, satellite, cellular and PCS communication systems. The term telecommunication tower does not include electrical or telephone transmission lines or supporting structures, antennae of amateur radio (HAM) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes, and antennae less than 60 feet in height with transmitting power of 250 watts or less.

TEMPORARY HEALTH CARE STRUCTURE. A transportable residential structure permitted under NCGS 160A-383.5, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one (1) occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b).

TEMPORARY USE. A use permitted on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary uses are mobile classrooms, construction trailers, and produce stands.

TENANT. The occupant or use of a building, portion of a building, or lot.

TENANT BAY. The exterior portion of a multi-tenant building devoted to a single tenant.

TERMINAL, BUS OR TAXI. A facility for the storage, maintenance, and dispatch of buses or taxi, and associated customer ticketing and waiting areas.

TERMINAL, FREIGHT. Any facility for handling freight, with or without storage and maintenance facilities.

THEATER, DRIVE-IN. An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles.

THEATER, INDOOR. An establishment for the indoor viewing of motion picture, musical or theatrical performances by patrons.

THEATER, OPEN AIR. An establishment for the outdoor viewing of motion picture, musical or theatrical performances by patrons. This does not include drive-in theaters.

THOROUGHFARE. See "*Street, Arterial*."

TOWER, MONOPOLE. A slender, often telescoping, self-supporting tower used to support telecommunications equipment.

TOWER, STEALTH. Any tower which is designed to blend into the surrounding environment.

TOWNHOUSE. A type of multi-family residential development with more than (2) individual dwelling units attached by interior side walls.

TRAILER. An open or enclosed, wheeled, non-motorized transport mechanism that may be attached to a motor vehicle for the transport of cargo.

TRANSIT STOP. Any structure or location that is primarily used, as part of a public transit system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

TREE. A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

TREE STAND. An aggregation of trees occupying a specific area and sufficiently uniform in composition, age, arrangement, and condition to make it distinguishable from the forest or adjoining areas.

TRUCK STOP. A facility which accommodates the trucking industry by providing fueling stations, weigh stations, restaurants, convenience foods, bathing facilities, and occasionally, overnight rooming accommodations. These facilities are typically located near state, federal or interstate highways.

UNDERSTORY TREE. A species of tree which normally grows to a mature height of fifteen to thirty-five feet in height and meets the specifications of the *American Standards for Nursery Stock* published by the American Association of Nurseryman.

UNIVERSITY, COLLEGE AND JUNIOR COLLEGE. A use, whether privately-owned or publicly-owned, providing academic education beyond the high school level.

USE, PRINCIPAL. The primary or predominant use of any lot or parcel.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UTILITIES. Facilities of any agency which, under public franchise or ownership, provides the general public with electricity, gas, oil, water, sewage, electronic sign, or rail transportation. The term utility shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

UTILITIES, ABOVE GROUND. Above ground facilities associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance such as telecommunication towers or public works facilities.

UTILITIES, BELOW GROUND. Utility facilities located entirely below ground associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance.

UTILITIES SERVICE AREA. An area which contains any surface mounted heating, ventilation, or air conditioning equipment or freestanding above ground devices, such as utility boxes, booster boxes, switch gear, transformers, water towers, pump stations, lift stations, utility substations or similar appurtenances which are part of an underground utilities system:

(A) *Private utility service area* - an area, on private property, which contains privately owned utility structures for the exclusive service of the premises where they are installed; or,

(B) *Public utility service area* - an area, on either private or public property, which contains utility structure owned by a utility for the service of one or more premises, but excluding utility substations.

VARIANCE. Relief from the requirements of this ordinance granted by the Board of Adjustment.

VEHICLE. A motorized transport mechanism that transports passengers or cargo including, but not limited to, motorcycles, cars, trucks, buses, watercraft (boats).

VESTED RIGHT (ZONING). A right established pursuant to the provisions of this ordinance to undertake and complete the development and use of property.

VETERINARY SERVICES. See “Animal Services”.

WAREHOUSE USE. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products. This definition does not include mini-warehouse storage.

WAREHOUSE, MINI. Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units.

WASTE INCINERATOR. A site with one or more facilities that use thermal combustion processes to destroy or alter the character or composition of waste products, not including hazardous waste management facilities.

WASTE TRANSFER STATION. A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

WATER DISTRIBUTION LINES, PUMPS, STORAGE TANKS, & APPURTENANCES. Utility lines and related structures that direct potable water to individual sites.

WATER SUPPLY WATERSHED. An area from which water drains to a point of impoundment, and the water is then used principally as a source for a public water supply.

WATERSHED. The entire land area contributing surface drainage into a specific stream, creek, lake or other body of water.

WATERSHED BUFFER. A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

WATERSHED CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run of the river), or the ridge line of the watershed (whichever comes first).

WATERSHED PROTECTED AREA. The area adjoining and upstream of the critical areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the critical area.

WATER TREATMENT PLANT. 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.

WHOLESALE TRADE. An establishment primarily engaged in selling durable and non-durable goods to retailers; to industrial, commercial, institutional, farm, construction contractors; or for professional business uses; or to other wholesalers. Merchandise is stored inside enclosed buildings unless outdoor storage is permitted in the zoning district in which it is located. Activities including physically assembling, sorting, and grading goods in large lots and breaking bulk lots for redistribution in smaller lots are conducted inside enclosed buildings in such a way as to have a minimal impact on surrounding properties. Operations with over 25 percent of sales to retail customers shall also be considered a retail use. This definition includes motor vehicle and motor vehicle parts and supplies, merchant wholesalers, furniture and home furnishing merchant wholesalers, lumber and other construction materials merchant wholesalers, professional and commercial equipment and supplies merchant wholesalers, electrical and electronic goods merchant wholesalers, hardware and plumbing and heating equipment and supplies merchant wholesalers, miscellaneous durable goods merchant wholesalers, paper and paper products merchant wholesalers, drugs and druggists' sundries merchant wholesalers apparel, piece goods, and notions merchant wholesalers, grocery and related product merchant wholesalers, beer, wine, and distilled alcoholic beverage merchant wholesalers, miscellaneous non-durable goods merchant wholesalers, motor vehicle and motor

vehicle parts and supplies merchant wholesalers (except motor vehicle parts (used) merchant wholesalers), metal and mineral (excluding petroleum) merchant wholesalers, machinery, equipment and supplies merchant wholesalers, farm product raw material merchant wholesalers, chemical and allied products merchant wholesalers, farm supplies merchant wholesalers.

WORKING DAY. Any day on which the offices of the City of Morganton are officially open, not including Saturdays, Sundays, and other holidays designated by the City Council.

YARD. Any area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

YARD, LANDSCAPING (TYPES)

Yard, Buffer. A strip of land with natural or planted vegetation and/or fencing, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two (2) adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

Yard, Building. The landscaping area between a building and paved parking area.

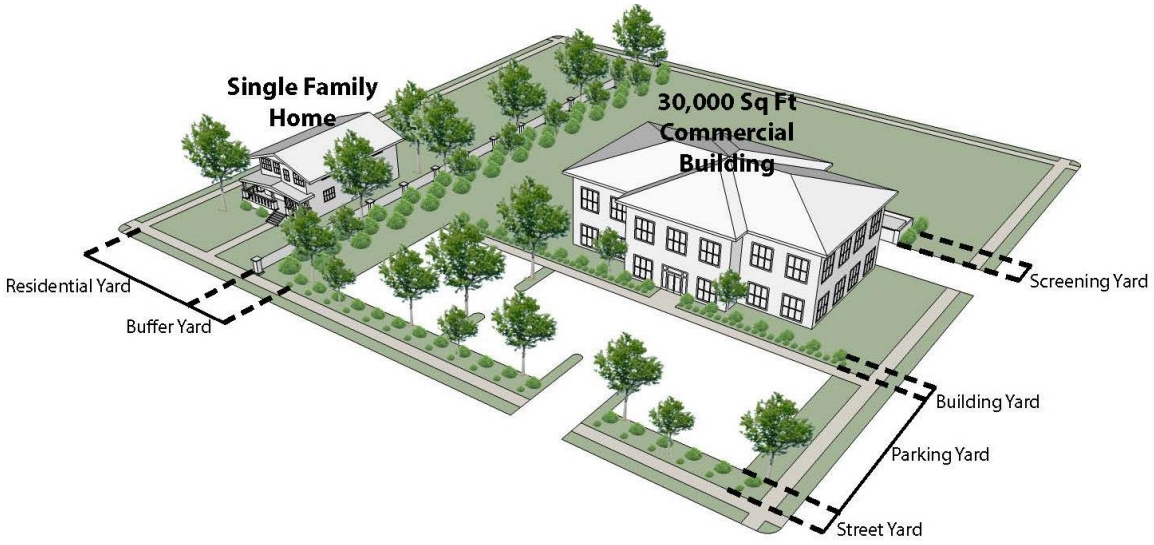
Yard, Parking Lot. The landscaping located in and around a parking area.

Yard, Residential Lot. The landscaping located on single-family residential lot.

Yard, Screening. The landscaping or fencing located around outdoor storage, mechanical equipment, loading docks, waste collection, and similar facilities that effectively screens such facilities from view.

Yard, Street. The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping.

FIGURE A.11: LANDSCAPING YARDS

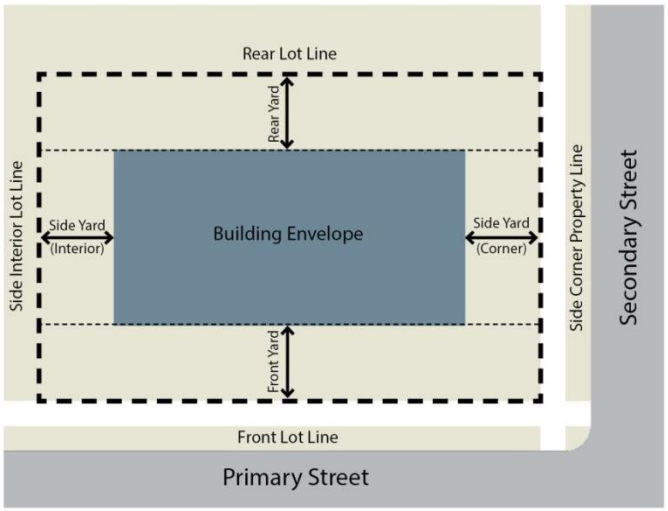


YARD, FRONT. The yard extending across the full width of the lot and lying between the front lot line and the front line of the principle structure as required in this ordinance.

YARD, INTERIOR SIDE. The yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side line, as required in this ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

YARD, REAR. The yard extending across the full width of the lot and lying between the rear lot line and the rear line of the principle structure as required in this ordinance.

FIGURE A.12: YARDS



ZONING ADMINSITRATOR. The Development and Design Services Director or designee within the Development and Design Services Department charged with interpreting, applying and enforcing the provisions of this Ordinance. The Zoning Administrator may be referred in the Ordinance as “Development and Design Services Director”, “Development and Design Services Department”, or “Development and Design Services Department Staff”.

APPENDIX B
RESOURCES

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B.1 Purpose

The purpose of this appendix is to provide additional information, resources, and recommendations related to land development. The recommendations in this appendix are not requirements but are intended to be helpful and encourage sustainable development in and around Morganton.

B.2 Landscaping Care

Review pruning tips from the *American National Standards for Tree Care Operations: Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices (Pruning)* published by the American National Standards Institute (ANSI A300).

B.3 Historic Preservation

B.3.1 Secretary of Interior's Standards for Rehabilitation

In general, the Secretary of Interior's Standards for Rehabilitation are recommended when repairing, adding on, or rehabilitating existing buildings in the downtown, especially if the owner of the building wishes to utilize rehabilitation tax credits. The Standards are listed below:

(A) A property shall be used for its historical purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(B) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(C) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(D) Most properties change over time; those changes that have acquired historical significance in their own right shall be retained and preserved.

(E) Distinctive features, finishes, and constructive techniques or examples of craftsmanship that characterize a property shall be preserved.

(F) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new one shall match the old in design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(G) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(H) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(I) New additions, exterior alterations, or related new construction shall not destroy historical materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, and architectural features to protect the historic integrity of the property and its environment.

(J) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

B.3.2 Maintenance of Historic Features

Property owners should take care to properly maintain and repair historic buildings in a way that will preserve the important architectural features and elements of the building that are consistent with the established architectural pattern of Morganton. Some basic guidelines to keep in mind are as follows:

(A) Preserve historic entrances by preventing enclosure or relocation. If an entrance requires modification to meet ADA requirements, modification shall occur in a manner that has minimal impact on the location and configuration of the original entrance and meets the NC Building Code standards for rehabilitation.

(B) Preserve existing display and transom windows openings. Property owners can achieve restoration of covered or altered window openings by carefully removing cladding or infill material.

(C) Transom windows should be retained to add light to the building interior. Repair glass and framing using original style materials. Do not paint or fill in transom windows.

(D) Remove any inappropriate cladding that covers historic materials.

(E) To prevent deterioration and rusting, property owners should paint, or seal in a proper manner, any wood or metal features, including doors, trim bulkheads and cornices.

(F) Property owners should properly maintain and repoint any damaged joints in brick, stone or other material to protect from water infiltration and deterioration.

(G) Replace broken glass in display windows, transoms and doors.

(H) Use interior storm windows or approved awnings to reduce heat gain and improve energy efficiency.

(I) If new framing is required for insulated glass, install it so that the framing matches the exterior profile and material of the existing historic storefront.

(J) In order to match the design and material of intact features, the following methods should be employed:

(1) Look for physical evidence (shadow lines) of missing features.

(2) Look for evidence of missing features in historic photographs.

(3) Look for features on similar buildings nearby to replicate.

B.4 Wildfire Reduction Techniques

While the preservation of natural vegetation and trees is encouraged, on slopes of greater than 20 percent, wildfire risk is greatly increased. In order to protect life and property, the following table recommends defensible space distances for different types of vegetation based on slope. Within this defensible space, vegetation should be extensively pruned or cleared in order to minimize loss in the event of wildfire.

TABLE B.1: RECOMMENDED DEFENSIBLE SPACE DISTANCES

Vegetation Type	No Slope to Moderate Slope (0-19%)	Steep Slope (20%-39%)	Slopes Upon Which Building is Not Recommended (40% or greater)
Grass	30 feet	40 feet	50 feet
Shrubs	30 feet	30-60 feet	60-100 feet
Trees	30 feet	30-100 feet	100-200 feet

Source: Minimizing Wildfire Risk: A Forest Landowner's Guide. Bardon & Carter, NC Cooperative Extension, 2003.

B.5 Low Impact Development

Low impact development design is a comprehensive stormwater management approach intended to maintain and restore a developing watershed's hydrologic functions. Developers interested in using innovative stormwater filtration methods should refer to low impact development design guidelines as set forth in the latest edition of the Low Impact Development Guidebook for North Carolina from NC State University, published by the North Carolina Cooperative Extension.

B.6 Lighting

In an effort to reduce light pollution and excessive glare developers may use the Model Lighting Ordinance (MLO) with User's Guide written by the Illuminating Engineering Society (IES) and the International Dark-Sky Association (IDA).

B.7 Green Building Techniques

Green building techniques can be accessed through the U.S. Green Building Council, North Carolina Chapter at http://www.usgbcnc.org/. The information below is from this site:

LEED, or Leadership in Energy and Environmental Design, is an internationally-recognized green building certification system. Developed by the U.S. Green Building Council (USGBC) in March 2000, LEED provides building owners and operators with a framework for identifying and implementing practical and measurable green building design, construction, operations and maintenance solutions. LEED promotes sustainable building and development practices through a suite of rating systems that recognize projects that implement strategies for better environmental and health performance. The LEED rating systems are developed through an open, consensus-based process led by LEED committees, diverse groups of volunteers representing a cross-section of the building and construction industry. Key elements of the process include a balanced and transparent committee structure, technical advisory groups that ensure scientific consistency and rigor, opportunities for stakeholder comment and review, member ballot of new rating systems, and fair and open appeals.

The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ encourages sustainable green building and development practices through the creation and implementation of universally understood and accepted tools and performance criteria. LEED is an internationally recognized certification system that measures how well a building or community performs across all the metrics that matter most: energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.