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MILLS RIVER

UNIFIED DEVELOPMENT ORDINANCE

Adoption Draft

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CHAPTER 6. STANDARDS

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CHAPTER 6. STANDARDS - KEY CHANGES IN THE NEW UDO

Chapter 6, Standards, establishes the development standards in the UDO through consolidation of existing standards in the Zoning, Subdivision, and other current chapters. Key changes to Chapter 6 include:

- Creation of a more comprehensive set of access standards for lots that include provisions for driveways, on-site pedestrian circulation, and required sight distance triangles.
- New non-residential architectural standards that allow greater flexibility and more precision that are applied to most forms of non-residential development regardless of proximity to a listed roadway. New mixed-use and multi-family architectural standards. New residential architectural guidelines for single-family detached and townhouse developments that may be applied as a condition of approval as part of a conditional rezoning application.
- Updated exterior lighting standards that establish differential illumination values at the edges of zoning districts, that applies limits to lighting of outdoor display areas after close of business, and adds ambient illumination values in residential parking lots for safety.
- A comprehensive infrastructure section that sets out general standards, easement provisions, street drainage, fire protection, streets, potable water, and wastewater treatment.
- A new set of landscaping and screening standards that includes more detail on plant species, material configuration, new parking lot standards (including shading), new screening provisions, and new perimeter buffer standards to be provided along zoning district edges.
- New open space set-aside standards that require all forms of development to provide open space and that recognize distinctions between active, passive, and gathering space. There are also new requirements for single-family detached and townhouse developments to dedicate land or pay an in-lieu fee for parkland.
- A new set of owner association provisions that clarify maintenance responsibilities for commonly-owned facilities (open space, roads, stormwater etc.), requirements for establishment of an owners' association, formation standards, and provisions directing the timing and method of maintenance responsibility transfer from the developer to the association.
- Updated parking and loading standards that list new parking standards for all use types, includes new standards for stacking spaces and bicycle parking. There is more detail on parking lot configuration and several means of increasing flexibility in the application of parking standards. The new standards do not require the provision of loading facilities; instead, the rules stipulate the configuration requirements if loading facilities are provided.
- New standards for location and configuration of refuse and recycling container enclosures for containers of one cubic yard in size and larger (typical dumpsters are 4-8 cubic yards in area).
- New resource protection standards that supplement the Town's current stream setback provisions to include new farmland compatibility requirements for new buffers, open space set-aside placement, and lot size standards. There are also new hillside and hilltop development standards that seek to limit development visibility and address stormwater runoff from hillside development (that is typically exempt from State stormwater standards).
- Updated standards for sidewalks, which are required along one side of all major streets, along with new standards for "sidepaths" which are private sidewalks located within or adjacent to private streets in subdivisions of 50 or more lots. There are also new standards for greenways applied in cases where a greenway facility is identified in adopted policy guidance (like Go Mills River).
- A new approach to sign regulations that reduces use of content-based standards and provides individual sign standards in a tabular format. The standards include sign standards for 7 new sign type standards and revises the approach to temporary signage based on the Reed ruling and the need for a more practical approach to enforcement given staffing resources.
- Updated provisions clarifying the soil erosion and sedimentation control standards, including addition clarity regarding silt fencing. Additional discussion is necessary regarding the Town's desire to carry forward its current stormwater standards as these are at odds with State standards, and lack any review criteria.
- New tree retention standards that require most forms of development to maintain a minimum percentage of the existing tree cover or replace it after construction. The standards include the provisions for credit towards other standards and mitigation provisions if required trees are removed after approval.

§ 6.1 CHAPTER INTRODUCTION

Chapter 6, Standards, sets out the rules for how buildings and development sites are configured as well as the physical relationship between a development and its surroundings, like other lots, streets, public spaces, and natural areas. Standards are organized by main section (two-digit numbers – e.g., #.#) and are listed alphabetically.

§ 6.2 ACCESS & DRIVEWAYS[10]

6.2.1. PURPOSE AND INTENT

A. The purpose of this section is to establish standards for the safe and efficient ingress into, egress from, and circulation within development sites in the Town's planning jurisdiction for vehicles, pedestrians, and bicyclists. More specifically, these standards are intended to:

01. Protect the health and safety of the Town's residents and visitors;

02. Clarify when access and circulation standards are applied to new development or redevelopment of existing sites;

03. Establish driveway configuration standards for residential and non-residential development;

04. Facilitate safe and convenient pedestrian movement around development sites;

05. Protect visibility for motorists, bicyclists, and pedestrians at intersections; and

06. Establish the standards for vehicular gates across roadways and driveways.

B. The standards for circulation of vehicles on streets, including street placement, continuation, and related standards are found in the Streets sub-section of Section <>, Infrastructure. The standards for vehicular circulation around parking lots and associated parking lot configuration standards are found in Section <>, Parking and Loading. The standards for pedestrian circulation within street rights-of-way on sidewalks and on greenways are located in Section <>, Sidewalks, Sidepaths, and Greenways.

6.2.2. APPLICABILITY

A. GENERALLY

01. Unless otherwise expressly exempted from these standards elsewhere in this Ordinance, these access and driveway standards shall apply to all new development in the Town's planning jurisdiction.

02. Compliance with all the applicable standards in this section shall be also be required in the following cases:

a. An existing principal use established before (*insert the effective date of this Ordinance*) is changed to a different principal use that is subject to these standards;

b. A development established prior to (*insert the effective date of this Ordinance*) is changed in ways that increase the amount of impervious surfaces on the site; and

c. A principal use or structure established before (*insert the effective date of this Ordinance*) is increased in floor area or building footprint.

B. REVIEW REQUIRED

Revisions to the access or on-site circulation system of a developed lot or site shall require Site Plan approval in accordance with Section <>, Site Plan.

6.2.3. ACCESS TO LOTS

A. ACCESS REQUIRED FOR ALL LOTS

01. Every lot shall abut or have driveway access to a public or private street meeting the standards in this Ordinance.

[10] This is a new section that replaces Sections 153.075 and 153.076 of the current Subdivision regulations. It adds additional detail on driveway standards, standards for pedestrian circulation, sight distance triangles, and provisions for vehicular gates.

02. Except for special purpose lots, no building or structure shall be constructed or placed on a lot that does not abut or have driveway access to a public or private street right-of-way meeting the standards of this Ordinance.

03. Except for lots within bungalow courts, conservation subdivisions, or pocket neighborhoods, lots that abut a public or private street right-of-way or access easement shall maintain at least 30 linear feet of lot frontage along the abutting public or private street right-of-way or access easement. The portion of a lot in a bungalow court, conservation subdivision, or pocket neighborhood providing access to an abutting public or private street right-of-way or access easement shall maintain at least 20 linear feet of frontage along the right-of-way or access easement providing access.

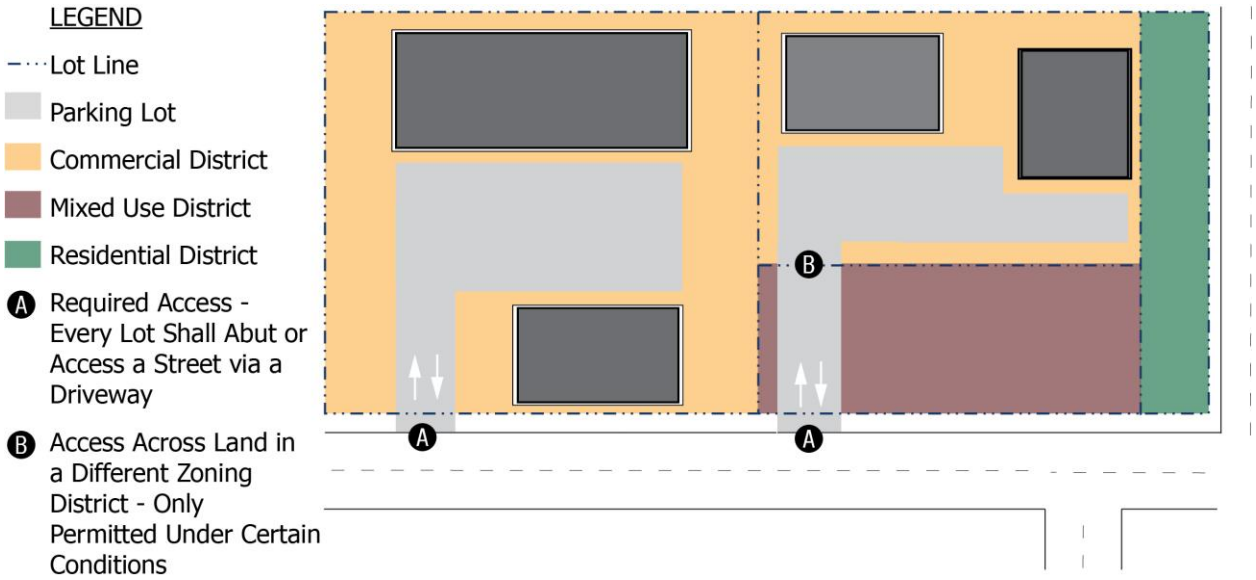
04. In the case of townhouse development, the parent parcel or tract containing the individual townhouse lots shall maintain a minimum width of at least 30 feet.

05. Lots that do not abut a public or private street right-of-way shall receive access via a driveway configured in accordance with Section <>, Driveways.

06. Driveways may be located exclusively on the same lot as the use they serve, or may cross a lot under separate ownership, in order to access a public or private street.

07. In cases where a driveway must cross a lot under separate ownership, the driveway shall be located within a recorded perpetual access easement with a minimum width of at least 30 feet, and configured to meet all applicable safety and fire access requirements (see Figure <>, Lot Access via Easement).

FIGURE <>: LOT ACCESS VIA EASEMENT



B. DIRECT ACCESS TO MAJOR STREETS FROM RESIDENTIAL SUBDIVISIONS

Driveways serving individual residential dwelling units should generally not have direct access to a major street unless authorized by NCDOT. Direct access to a major street from lots in a residential subdivision shall be configured in accordance with the following standards.

01. In cases where a tract or site abutting a major street is proposed for subdivision, all lots created shall maintain sufficient frontage on a different street, either pre-existing or created as part of the subdivision, so that direct access to lots is not provided by the major street. Driveways serving lots along a new frontage street shall be located no closer than 150 feet from the new frontage street's intersection with other streets.

02. The final plat creating the subdivision shall indicate that driveway access to a major street is limited and shall be provided by access from a different street.

03. In the event the subdivision is unable to comply with the access limitations in this subsection, an applicant may seek a variance in accordance with Section <>, Variance.

C. ACCESS AUTHORIZATION REQUIRED

01. Establishment of new access to a street maintained by the Town or by NCDOT shall require approval of a Driveway Permit in accordance with Section <>, Driveway Permit.

02. Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.

03. A Certificate of Occupancy shall not be issued until the access requirements of this section have been met.

D. ACCESS TO A STREET NOT MEETING REQUIRED STANDARDS

In cases where a lot or lots are proposed to gain access from an existing public or private street that does not meet the applicable requirements for streets in this Ordinance, then the lot(s) seeking access shall be responsible for dedicating or otherwise securing the land necessary for the street right-of-way and constructing or causing the required street cross-section and associated street improvements along the frontage of the lot(s) in question to be constructed. Street dedication, construction, and the provision of associated improvements are limited to the half of the street abutting the subject lot(s).

6.2.4. DRIVEWAY STANDARDS

A. PURPOSE AND INTENT

The purpose for these standards are to ensure that all lots and development sites are served with a safe and adequate means of vehicular ingress and egress. These driveway standards are further intended to:

01. Control lot access in accordance with best practices in congestion management, vehicular safety standards, and the Town's adopted policy guidance for roadway corridors;

02. Minimize conflicts between pedestrians, bicyclists, and vehicles;

03. Provide as much physical separation between street intersections and driveways serving individual land uses as is practicable;

04. Minimize individual access points to major streets to the minimum necessary; and

05. Encourage shared access to individual lots where such shared access is authorized and is practicable.

B. GENERAL DRIVEWAY STANDARDS

Driveways shall comply with the following standards. Vehicular use areas associated with parking lots and service areas are subject to the standards in Section <> Parking and Loading.

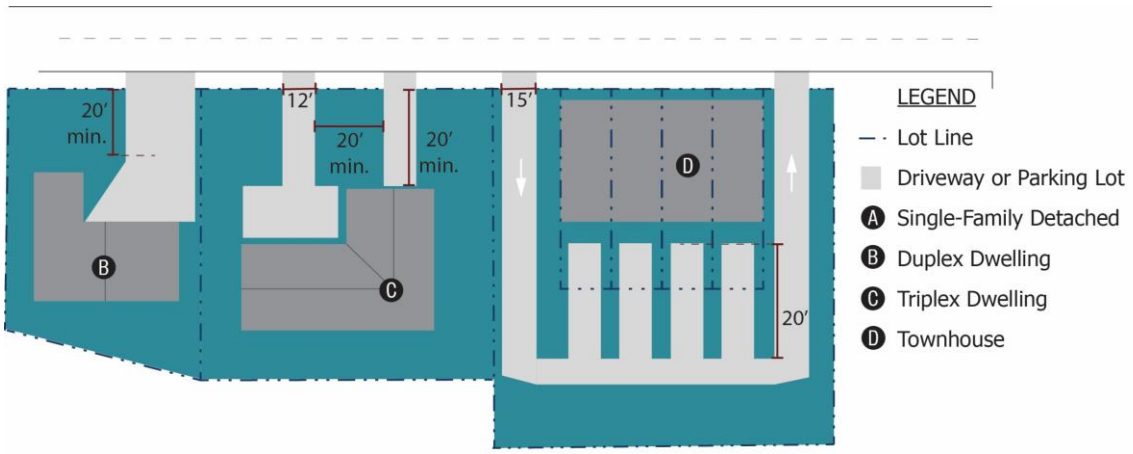
01. DRIVEWAY AREA DEFINED

The standards in this section shall apply to driveways, which are areas of ingress or egress onto an individual lot or site measured from the edge of the abutting street pavement inwards to one of the following termination points:

a. The end of the driveway surface on lots where off-street parking is permitted to take place within a driveway; or

b. The minimum depth of the driveway on lots or sites where off-street parking takes place within a shared parking lot or structure (see Figure <>: Driveway Area).

FIGURE <>: DRIVEWAY AREA



02. COMPLIANCE WITH NCDOT STANDARDS

a. Driveways providing ingress or egress to a State-maintained street shall be placed and constructed in accordance with the "Policy on Street and Driveway Access to North Carolina Highways" adopted by the North Carolina Department of Transportation (NCDOT), as amended.

b. All driveways connecting to State-maintained streets shall obtain Driveway Permit approval from NCDOT with concurring approval from the Town, prior to the construction in accordance with Section <>, Driveway Permit.

03. CONFIGURATION

a. All driveways shall be constructed so that:

i. Vehicles can enter and exit from a lot without posing any substantial danger to themselves, pedestrians, bicycles, or vehicles traveling on abutting streets; and

ii. Interference with the free flow of traffic on abutting or surrounding streets is minimized.

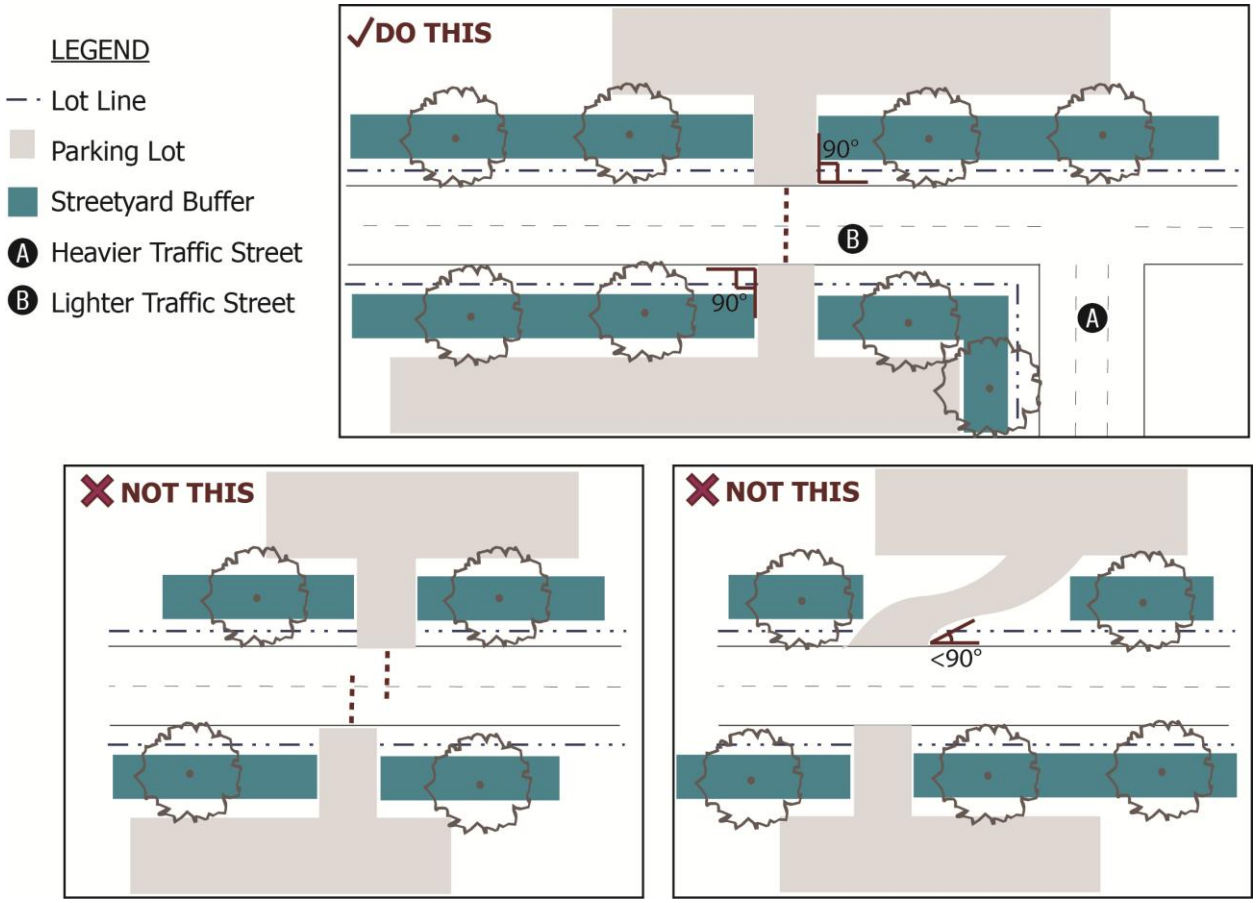
b. No driveway serving an off-street parking area or providing on-site circulation is permitted to occupy the entirety of any required landscaping area, but driveways may be installed across these areas.

c. Driveway radii shall be designed in accordance with the NCDOT's specifications and shall not extend beyond lot lines.

d. Driveways shall be as nearly perpendicular to the street right-of-way as possible (see Figure <>, Driveway Configuration);

e. Driveways shall line up with other driveways across the street, where practicable.

FIGURE <>, DRIVEWAY CONFIGURATION



04. DRIVEWAY APRON

a. New driveways established after (*insert the effective date of this Ordinance*), serving a non-residential, mixed-use, or multi-family development that abut a right-of-way with a paved street shall be surfaced with an apron consisting of asphalt, approved pavers, or concrete, and extend outwards from the edge of the pavement towards or beyond the lot line for a distance of at least fifteen feet from the edge of the pavement.

b. In cases where a sidewalk is present or is not present but is required, the apron shall be configured so as not to interfere with the sidewalk.

05. DRIVEWAY AND APRON SURFACING REQUIREMENTS LIMITED

In no instance shall the Town require pavement surfacing standards that exceed the most recently-adopted version of the NCDOT's Pavement Design Manual. Pavement surfacing standards serving non-residential, mixed-use, and multi-family development may be less restrictive than the NCDOT's pavement design standards only in cases where they are approved, signed, and sealed by a professional engineer.

06. MAINTENANCE

The Town shall not be responsible for maintenance of driveways, whether located within or outside a public street right-of-way, or on land not owned and operated by the Town of Mills River.

C. RESIDENTIAL DRIVEWAYS

01. DESIGN

The standard residential driveway access for the Town shall be a "ramp" type driveway section, constructed in accordance with applicable Town standards.

02. WIDTH AND DEPTH

a. DRIVEWAYS SERVING A SINGLE-FAMILY DETACHED DWELLING ON ITS OWN LOT

Driveways shall be at least ten feet wide, and shall maintain a minimum depth of at least 20 feet from the lot line in cases where the driveway is used as a location for required off-street parking. In the case of townhouse developments the minimum depth shall be measured from the perimeter lot line of the development, not the individual townhouse lot.

b. DRIVEWAYS SERVING UP TO SIX SINGLE-FAMILY DETACHED DWELLINGS ON THE SAME OR DIFFERENT LOTS

i. Driveways serving more than one but no more than six single-family detached dwellings on the same or different lots shall be configured in accordance with Section <>, Shared Driveways.

ii. Except for lots created via a Family Subdivision, driveways serving more than six single-family detached dwellings on the same or different lots shall be configured as public or private streets in accordance with Section <>, Streets.

c. DRIVEWAYS SERVING UP TO SIX RESIDENTIAL UNITS ON THE SAME OR DIFFERENT LOTS

i. Driveways serving up to six townhouse, duplex, triplex, or quadplex dwelling units within the same development shall be at least 12 feet wide, and shall maintain a minimum depth of at least 20 feet from the lot line in cases where the driveway is used as a location for required off-street parking. In the case of townhouse developments the minimum depth shall be measured from the perimeter lot line of the development, not the individual townhouse lot.

ii. Driveways serving no more than four townhouse, duplex, triplex, or quadplex units on the same or different lots may be configured in accordance with Section <>, Shared Driveways.

d. DRIVEWAYS SERVING MORE THAN SIX RESIDENTIAL SINGLE-FAMILY DETACHED DWELLINGS OR RESIDENTIAL UNITS

i. Except for single-family detached dwellings on lots established via a Family Subdivision, driveways serving more than six single-family detached dwellings in the same or different developments shall be configured as public or private streets.

ii. Driveways serving more than four townhouse, duplex, triplex, or quadplex units in the same or different developments shall be configured as public or private streets in accordance with Section <>, Streets.

e. DRIVEWAYS SERVING MULTI-FAMILY DWELLING UNITS

Driveways serving two or multi-family dwelling units shall be configured as public or private streets in accordance with Section <>, Streets.

f. DRIVEWAYS SERVING LOTS IN A FAMILY SUBDIVISION

Driveways serving lots created via a Family Subdivision may be served by a driveway configured in accordance with Section <>, Driveways Serving a Single=Family Detached Dwelling Unit on its own Lot, regardless of the number of lots served.

03. SURFACING

a. SINGLE-FAMILY DETACHED DWELLINGS

Driveways serving a single-family detached dwelling are encouraged to be paved or surfaced with asphalt, concrete, pavers, gravel, or crushed stone, but unpaved or earthen driveways are permitted.

b. ALL OTHER FORMS OF RESIDENTIAL DEVELOPMENT

Driveways serving any form of residential development other than a single-family detached dwelling shall be paved with a suitable all-weather surface, excluding gravel, crushed stone, earth, grass, or other similar material.

04. REQUIRED NUMBER

a. The maximum number of driveway access points serving an individual single-family detached, duplex, triplex, or quadplex dwelling on its own lot shall be two, but the lot shall maintain a minimum lot width of at least 80 linear feet. Lots with lot widths less than 80 feet shall be limited to a maximum of one driveway.

b. The maximum number of driveway access points serving an individual townhouse dwelling on its own lot shall be one. Developments of up to six individual townhouse units may be configured to include individual driveways for each unit that are located on commonly-owned land, provided all driveways meet the minimum spacing requirements in subsection (05) below. Driveways serving more than six townhouse units shall terminate into an off-street parking lot.

c. Driveways serving more than six multi-family residential units shall terminate in an off-street parking lot. The minimum number of driveways serving a multi-family residential development shall be:

i. One for developments of 100 or fewer units;

ii. Two for developments of 101 to 300 units; and

iii. Three for developments of more than 300 units.

d. The number of driveways serving a multi-family residential development may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards in the opinion of the Planning Director. These restrictions may include required common or shared access points.

05. MINIMUM SPACING

a. Except for developments of four or fewer townhouse dwellings, residential driveways shall be spaced at least 20 feet from one another.

b. Driveways serving four or fewer townhouse dwellings where driveways are located within commonly-owned land shall be at least three feet from one another. Driveways serving more than four townhouse units shall serve an off-street parking lot.

c. Driveways shall be no closer than three feet from any lot line, except where two driveways on abutting lots are intended to touch one another as a shared driveway.

d. The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.

e. The radius of the driveway shall not encroach on the minimum corner clearance.

D. SHARED RESIDENTIAL DRIVEWAYS

These standards are provided to permit up to six single-family detached dwellings or up to four townhouse, duplex, triplex, or quadplex dwelling units to share one driveway that crosses one or more separate lots. Shared residential driveways shall be configured in accordance with the following standards:

01. GENERALLY

One or more individual residential lots configured with a single-family detached, townhouse, duplex, triplex, or quadplex dwelling may establish access across one or more different lots via a single shared driveway, provided the shared driveway:

i. Does not serve more than six single-family detached or four townhouse, duplex, triplex, or quadplex dwelling units on the same or different lots;

ii. Is located within a recorded access easement configured in accordance with Section <>, Access Easement Required; and

iii. Connects to a publicly-maintained or a private street built to public street standards.

02. ACCESS EASEMENT REQUIRED

Shared driveways shall be located within an access easements configured in accordance with the following (see Figure <>: Shared Access Easement):

a. The easement shall maintain a minimum width of at least 50 feet;

b. There shall be a minimum separation between the easement and any other platted access or right-of-way of at least 50 feet;

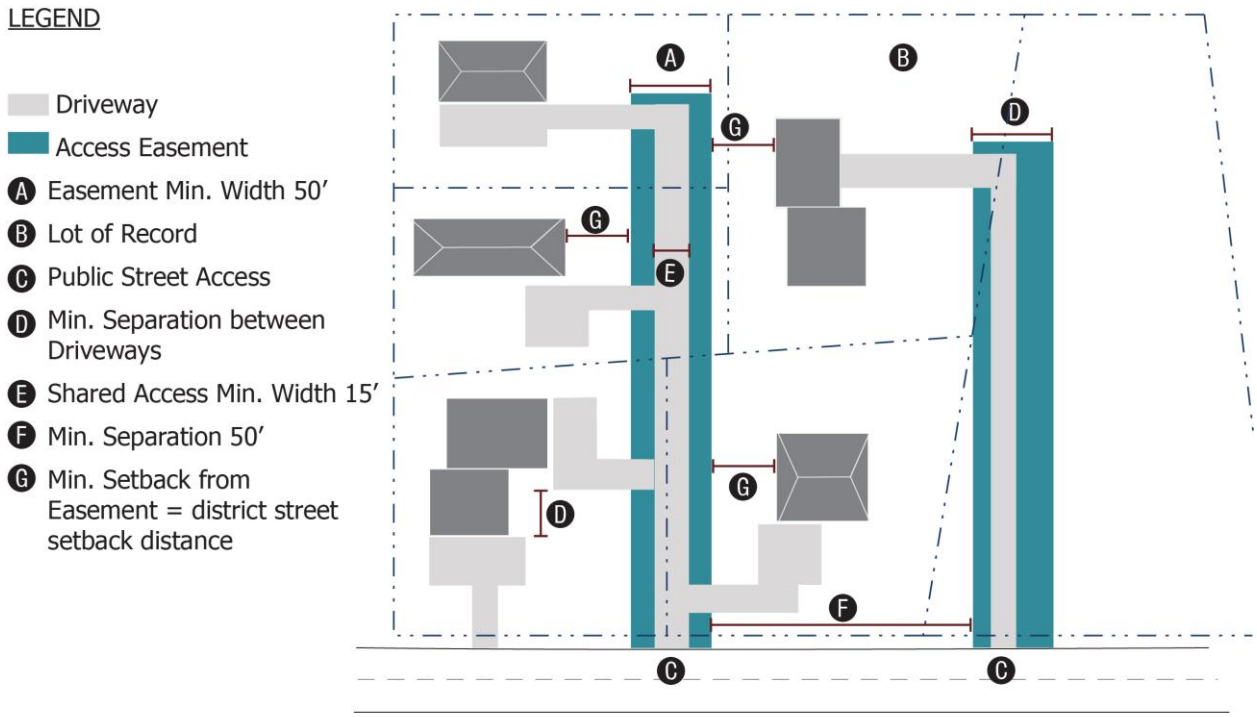
c. The location of the easement shall be recorded on a plat;

d. The easement shall be configured to permit safe ingress, egress, regress, and necessary utilities to serve the lot;

e. All residential units proximate to the easement shall maintain a minimum setback from the edge of the access easement that is comparable to or greater than the minimum street setback for the zoning district where located; and

f. The 50-foot right-of-way width may be reduced to 30 feet by the Planning Director in cases where the accessway cannot be extended due to existing development, topography, or other limitations.

FIGURE <>: SHARED ACCESS EASEMENT



03. SURFACING

Shared driveways may be paved or surfaced with gravel or crushed stone.

04. MAINTENANCE

The landowners who benefit from the access associated with a shared driveway shall be responsible for maintenance of the driveway and access easement. In no instance shall the Town be responsible for maintenance of shared driveways or access easements.

05. SHARED DRIVEWAYS LIMITED

Shared driveways serving more than six single-family detached dwellings or more than four townhouse, duplex, triplex, or quadplex dwelling units shall be configured as a public or private street in accordance with the applicable standards in this Ordinance.

E. NON-RESIDENTIAL AND MIXED-USE DRIVEWAYS

01. DESIGN

a. Non-residential and mixed-use driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

b. In cases where a development includes outparcels, the outparcel shall be directly accessible from the vehicular accessways internal to the development in addition to access from the adjacent off-site public street network.

02. WIDTH AND DEPTH

a. Driveways serving non-residential and mixed-use development shall terminate in an off-street parking lots or vehicular use area.

b. Driveways shall be configured as a two-way drive with each direction maintaining a minimum width of at least 12 feet. Driveways may be split into separate one-way drives of 12 feet each provided they are divided by a median of at least two feet in width.

c. A driveway serving a non-residential or mixed-use development shall be configured with a minimum depth so as to prevent a turning movement from the drive aisle into an individual parking space in accordance with NCDOT requirements.

d. In cases where a development is subject to a transportation impact analysis, the minimum driveway depth specified in the transportation impact analysis shall control.

e. Either the Town, the NCDOT, or a transportation impact analysis may require a driveway to be supplemented with turn lanes.

f. The Town may require a planted landscaping island or other traffic control feature to be established at the termination of a driveway where necessary for access management of traffic control.

03. SURFACING

Driveways serving a non-residential or mixed-use may be paved or surfaced with gravel or crushed stone but shall be subject to the standards in Section <>, Driveway Aprons. Unpaved or dirt driveways shall be prohibited.

04. REQUIRED NUMBER

The number of driveway access points may be restricted by the Town or NCDOT, as appropriate, where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

05. MINIMUM SPACING

Approval of driveway access between a lot and the right-of-way at an interval less than those specified in the *Policy on Street and Driveway Access to North Carolina Highways*, manual, as adopted and amended by NCDOT, may be granted subject to the approval of NCDOT.

06. SHARED ACCESS

Shared driveways or parking lot cross access in accordance with Section <>, Parking Lot Connection, may be required between adjacent lots fronting on a major street in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

07. REVISION OF EXISTING ACCESS

a. The Town Council, in conjunction with NCDOT, shall have the authority to require the closure, relocation, or restriction of existing access points where multiple access points to the site are available.

b. The Town Council may require the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

6.2.5. ON-SITE PEDESTRIAN WALKWAYS

A. On-site pedestrian walkways that minimize conflict between pedestrians and vehicles shall be provided as part of the following developments:

01. All development in the TNC district;

02. All mixed-use development in any conditional zoning district;

03. Developments of two or more non-residential principal buildings in the GLC district;

04. All multi-family and townhouse developments; and

05. All Institutional forms of development (except telecommunications facilities).

B. Pedestrian walkways shall be configured in accordance with the following standards:

01. On-site pedestrian walkways shall connect each primary building entrance to off-street parking areas and to other building entrances on the same site (see Figure <>, Pedestrian Walkways);

02. Development subject to these standards shall provide at least one connection to existing or planned public sidewalks, sidepaths, greenways, or other pedestrian circulation features whether located on, or at the edge of, an abutting lot;

03. Development subject to these standards that abuts vacant land shall provide pedestrian circulation connections extending to the lot line of abutting vacant land(s) at logical connection points, as determined by the Planning Director;

04. In cases where a lot has two or more sides bounded by a sidewalk, a sidewalk connection shall be made on each side with an existing or planned sidewalk;

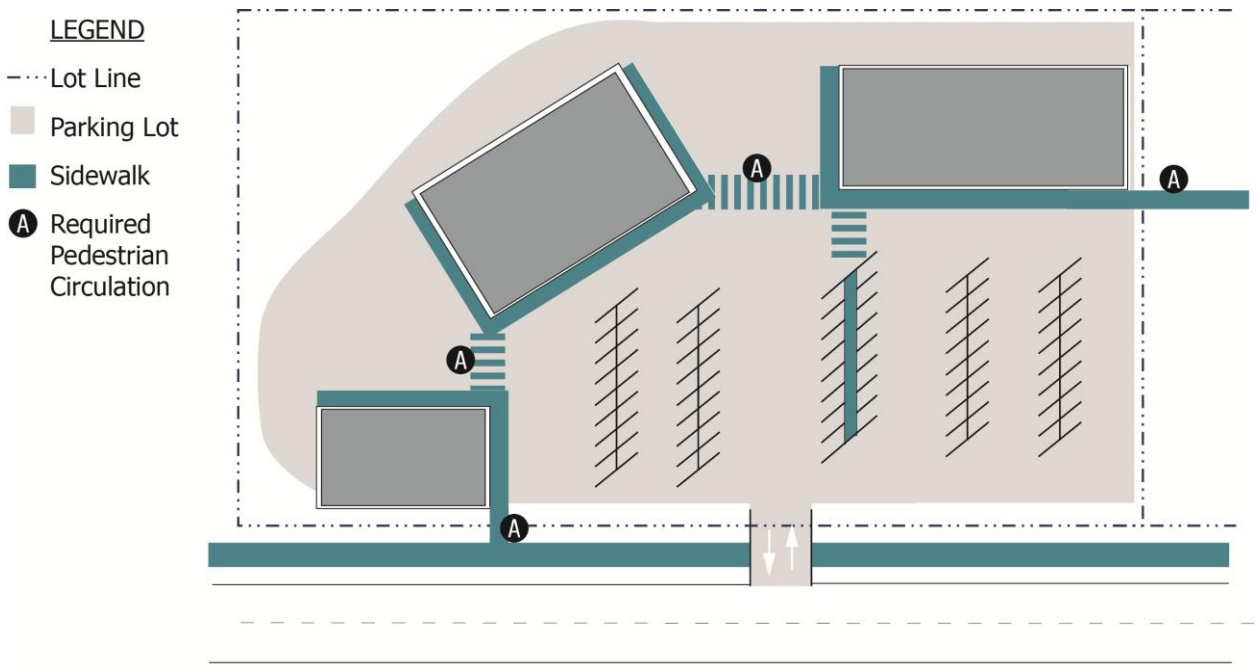
05. On-site pedestrian walkways shall be paved with asphalt, concrete, pavers, bricks, stone, or other masonry material, and shall be of contrasting color or materials when crossing vehicular drive aisles;

06. On-site pedestrian walkways shall be positively drained and configured to avoid areas of pooling water;

07. On-site pedestrian walkways shall maintain a minimum width of five feet and shall comply with applicable ADA requirements, pertaining to slope and grade; and

08. Development with 200 or more off-street parking spaces shall provide at least one fully-separated, improved on-site pedestrian walkway within planted landscape islands. On-site pedestrian walkways shall be aligned perpendicular to the buildings served and terminate at building entrances, to the maximum extent practicable.

FIGURE <>: PEDESTRIAN WALKWAYS



6.2.6. SIGHT DISTANCE TRIANGLES

A. SIGHT DISTANCE TRIANGLES ESTABLISHED

01. Corner lots and lots with driveways, alleys, or other methods of ingress/egress to a street shall include sight distance triangles to ensure visibility for drivers and pedestrians moving through or in an intersection. Required sight distance triangles shall be configured in accordance with Table <>: Sight Distance Triangle Requirements, and Figure <>, Sight Distance Triangles.

02. Land within a required sight distance triangle shall comply with the standards in Section <>, Limitations on Obstructions within Required Sight Distance Triangles.

TABLE <>: SIGHT DISTANCE TRIANGLE REQUIREMENTS

TYPE OF STREET, INTERSECTION, OR DRIVEWAY		MINIMUM SIGHT DISTANCE CONFIGURATION REQUIRED ON ABUTTING LOTS (FEET) [1] [2]
Intersections of Streets		10/70
Driveways Serving Parking Lots		10/70
Driveways serving Individual Uses without Parking Lots	Single-family detached, townhouse, two-family, triplex, and quadplex dwellings	None
	All other uses of land	10/70 wherever possible
Notes:	[1] The NCDOT or the Town may require an alternative sight distance triangle configuration. [2] AASHTO requirements shall be applied to curved or curvilinear streets.	

B. MEASUREMENT OF SIGHT DISTANCE TRIANGLE

Sight distance triangles shall be provided in compliance with the latest version of AASHTO's Policy on Geometric Design of Highways and Streets manual and/or NCDOT standards, as applicable.

01. At all intersections of streets, a minimum of a 10-foot by 70-foot sight distance triangle easement shall be dedicated on the recorded plat to restrict the use of this area from obstructing the line of site at an intersection. No object greater than 30" in height can be placed or constructed in this area.

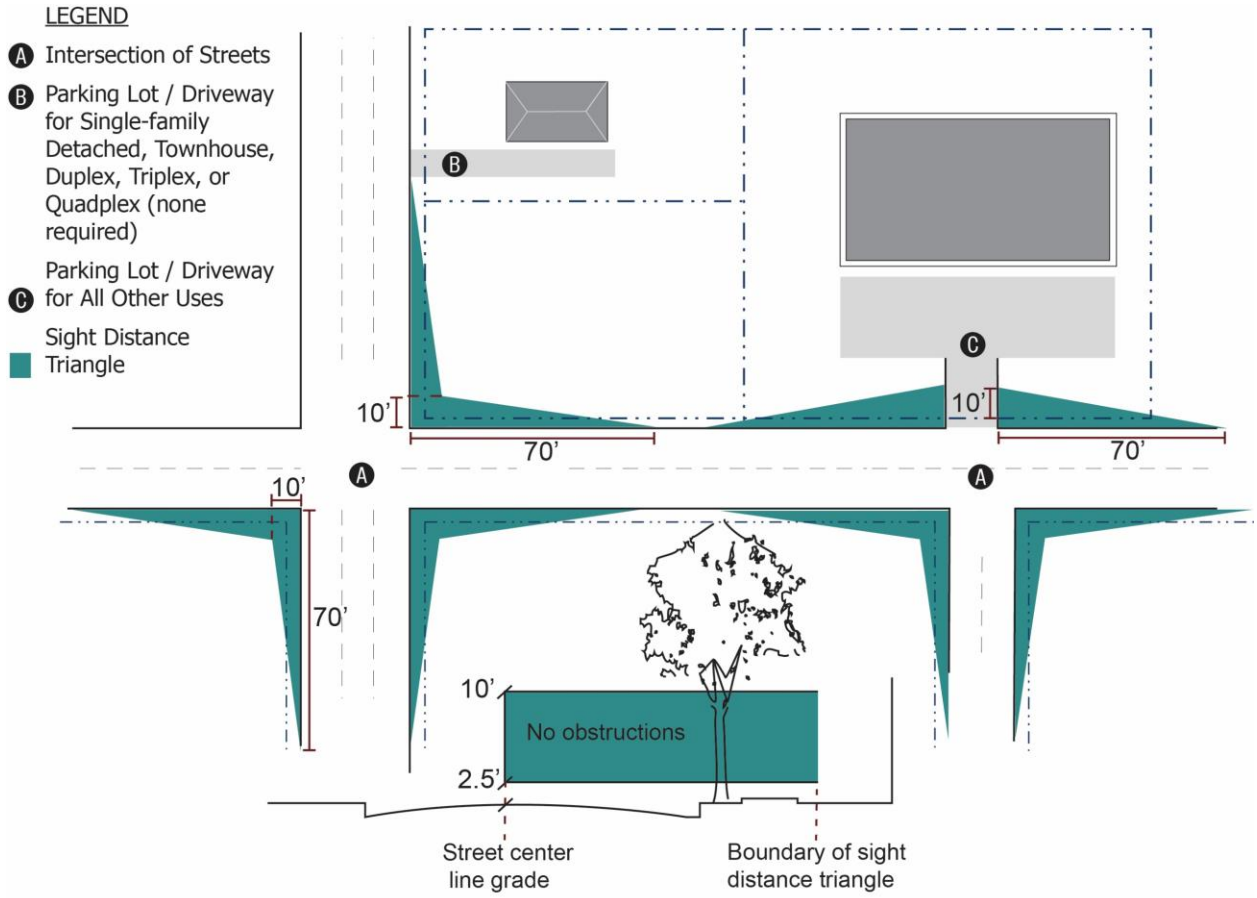
02. If the required site distance to comply with the AASHTO or NCDOT, exceeds the 10-foot by 70-foot sight distance triangle footprint, additional sight distance easement may be required to be dedicated.

C. LIMITATIONS ON OBSTRUCTIONS WITHIN REQUIRED SIGHT DISTANCE TRIANGLES

01. No planting, structure, fence, wall, slope, embankment, parked vehicle, or other obstruction to vision between the heights of two-and-one-half (2½) feet and ten feet above the centerline grades of intersecting streets or accessways may be located within a required sight distance triangle.

02. No structure or object, regardless of its size, which obstructs visibility within a required sight distance triangle to the detriment of vehicular or pedestrian traffic shall be permitted.

FIGURE <>: SIGHT DISTANCE TRIANGLES



6.2.7. VEHICULAR GATES

A. In no instance shall vehicular gates be placed across public street rights-of-way, unless done so at the direction of the Town on a municipal street, for the purposes of public safety.

B. Vehicular gates may be placed across private street rights-of-way, provided that adequate access for emergency personnel is provided in the opinion of the emergency service provider.

C. Nothing shall prohibit the installation of vehicular gates across a private driveway or site accessway that is not a public street.

D. Vehicular gates shall:Conform to Town requirements for emergency access;

02. Be setback from an abutting street right-of-way the minimum distance necessary to allow for the stacking of three vehicles outside of the travel lanes of the street from which the vehicular gate gains access;

03. Include an additional area permitting the safe vehicular turnaround if a vehicle is denied entry;

04. Be of sufficient width to allow passage of emergency vehicles and a minimum clearance of at least 13' 6" in height at the lowest point;

05. Coordinate with emergency access procedures of the Henderson County Fire Mashal and Henderson County Sheriff, including the following:

a. Access procedures shall ensure immediate access through the entry gates for emergency and law enforcement vehicles responding to emergencies without need of special keys or codes. This may be done by an access control device approved by Henderson County.

b. The developer and homeowners' association shall provide, and annually update, documentation necessary to the Henderson County Fire Marshal and Sheriff's Department that proposed entry gates and access procedures meet all County standards for access by emergency and law enforcement vehicles.

c. If the homeowners' association fails to maintain reliable access for the provision of emergency or other public services, the County may enter the gated development and open, disable, or remove any gate or device which is a barrier to access, at the sole expense of the homeowners' association.

d. The declaration of covenants, conditions and restrictions and any other relevant documents of the homeowners' association shall include a statement to this effect.

06. Be reviewed and approved by the Technical Review Committee or the Planning Director.

§ 6.3 ARCHITECTURAL STANDARDS AND GUIDELINES

6.3.1. SECTION INTRODUCTION[11]

This section includes a series of architectural, or building appearance standards that are applied to new commercial, mixed-use, multi-family, and certain forms of institutional, and industrial development. There are also a series of voluntary residential design guidelines that may be applied to single-family detached dwelling subdivisions, townhouses, two-family development, triplexes, and quadplexes. Typically, these design guidelines are used as part of conditions of approval associated with a conditional rezoning application.

6.3.2. NON-RESIDENTIAL DESIGN STANDARDS

A. PURPOSE AND INTENT

These non-residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing minimum requirements for design and configuration of certain non-residential development within the Town's planning jurisdiction. They are proposed to provide clarity on the Town's expectations for the quality and appearance of these forms of development. More specifically, the purposes of these standards are to:

01. Foster high-quality, attractive non-residential development consistent with Town's adopted policy guidance;

02. Protect the established rural character in Mills River;

03. Assure a fair and consistent application of the design standards to certain forms of new non-residential development, and changes to existing non-residential uses or alterations to existing non-residential sites after (*insert the effective date of this Ordinance*);

04. Foster creativity in design and greater compatibility between non-residential development and its local surroundings; and

05. Promote property values and protect existing public and private investment.

B. APPLICABILITY

The standards in this section shall apply to the following types of development:

01. NEW COMMERCIAL USE TYPES

New principal structures from all use types listed in the Commercial Use Classification section of Table <>, Table of Common Principal Uses;

02. NEW INDUSTRIAL USE TYPES

New principal structures from the following Use Categories listed in the Industrial Use Classification section of Table <>, Table of Common Principal Uses:

a. Flex Space;

b. Industrial Services;

c. Manufacturing;

d. Warehouse Related;

e. Wholesale Sales;

03. NEW INSTITUTIONAL USE TYPES

New principal structures from the following Use Categories listed in the Institutional Use Classification section of Table <>, Table of Common Principal Uses:

a. Assembly;

[11] This section is intended to replace and expand on the Corridor Overlay standards in Section 154.046 of the current Zoning Ordinance. These current standards apply basic exterior material composition standards and façade feature changes every 20 feet to all non-residential and multi-family buildings located within 500 feet of 12 different roadway rights-of-way, including NC 191 and NC 280. The standards in this section provide greater distinction between use types, carry forward slightly modified exterior material and façade element standards. These standards apply everywhere in Town (not just within 500-feet of certain streets), but also allows an exemption when a use is located more than 1,000 linear feet from a lot line or is fully screened from off-site views based on distance or topographic conditions.

b. Day Care;

c. Education Related;

d. Government Related;

e. Health Care;

f. Social Services;

04. REDEVELOPMENT OR CHANGE IN USE

Full compliance with the applicable standards in this section shall apply to any of the following:

a. Conversion of an existing use type established prior to (*insert the effective date of this Ordinance*) into one of the principal use types listed in sub-section (01) through (03) above;

b. Increases in the amount of impervious surface area on a site with an existing use type listed in sub-section (01) through (03) above; and

c. Increases in the total floor area or building footprint of a principal use type listed in sub-section (01) through (03) beyond that existing prior to (*insert the effective date of this Ordinance*).

C. EXEMPTIONS

The standards in this section shall not apply to the following forms of development:

01. Mixed-uses, which shall instead comply with the standards in Section <>, Mixed-Use Design Standards;

02. Use types listed in sub-sections (01) through (03) above located on lots of sufficient size, topographic conditions, or with existing undisturbed vegetation such that the use type is not visible from any off-site streets or adjacent or abutting development, in the opinion of the Planning Director; and

03. Routine maintenance and repairs, provided that such maintenance or repairs do not rise to the level of redevelopment or alteration.

04. Secondary uses or buildings associated with a principal use type identified in sub-sections (01) through (03) above provided the secondary use or structure occupies less than 25% of the total square footage of the principal structure.

D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, Site Plan, Subdivision, Special Use Permit, or Zoning Compliance Permit, as appropriate.

E. DESIGN REQUIREMENTS

Development subject to these non-residential design standards shall be designed in accordance with the following building size, exterior material, and related standards:

01. MAXIMUM BUILDING SIZE

a. Except for industrial land uses, development subject to these standards shall be configured so that the total gross floor area on an individual lot shall not exceed 75,000 square feet.

b. The maximum building size standard shall not apply to industrial land uses or redevelopment or alteration of a lawfully-established building of 75,000 square feet or more completed prior to (*insert the effective date of this Ordinance*).

c. Applications subject to these standards seeking to establish buildings in excess of the maximum building size may only do so as part of an approved Variance or Conditional Rezoning.

02. BUILDING WALLS DISTINGUISHED[12]

a. Exterior building wall facades subject to the standards in this section shall be distinguished as primary, secondary, or tertiary, in accordance with the following standards (see Figure <>, Non-Residential Building Façade Walls Distinguished):

i. Primary walls are the architectural front façade of the building that faces the street from which the building is addressed. As an alternative, the primary wall is the building wall that includes the use's primary entrance.

ii. Secondary building walls are exterior building walls that are visible from a street or public recreation land such as a park, greenway, or other public recreation use but that are not the building's primary wall.

iii. Tertiary walls are all other exterior building walls that are not primary or secondary.

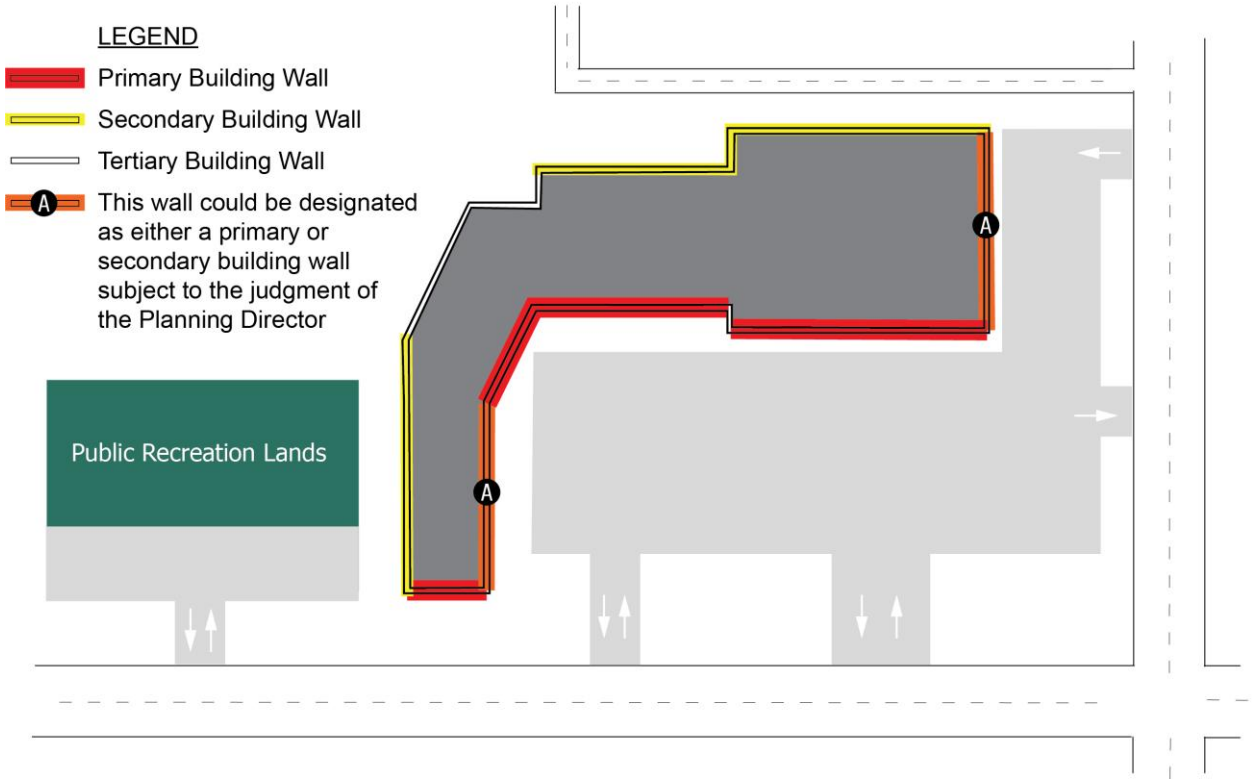
[12] These standards address the common "visible from streets" issue with the current standards where only a portion of a building wall may be visible from a street at certain times of the year.

b. Different standards apply to building walls based on their designation as a primary, secondary, or tertiary building wall.

c. In cases where site conditions result in a situation where a building wall could be designated as either a primary or secondary wall by the Planning Director, the wall shall be treated as a primary wall. Nothing in these standards shall limit the number of primary walls on any individual building.

d. In cases where site conditions result in a situation where a building wall could be designated as either a secondary or tertiary wall by the Planning Director, the wall shall be treated as a secondary wall.

FIGURE <>: NON-RESIDENTIAL BUILDING FAÇADE WALLS DISTINGUISHED



03. BUILDING ARTICULATION REQUIRED

Primary and secondary building facades shall be articulated to provide at least one of the following design features at least every 20 feet of building façade wall length. Allowable building design features may include any of the following elements:

a. Glazing, comprised of one of more windows occupying at least four square feet in area;

b. A building entrance;

c. A bay window of at least four feet in length;

d. An awning, extending along the building façade wall at least four linear feet;

e. A projection outwards from or recess inwards from the primary building façade plane of at least six inches and occupying at least four feet in width;

f. A porch or balcony of at least four feet in length;

g. A cupola, roof dormer, or change in roof plane;

h. An exterior material change occupying at least 20 feet in width; or

i. A primary building wall color change occupying at least 20 feet in width.

04. ALLOWABLE EXTERIOR MATERIALS

At least 75 percent of each primary building façade wall and at least 40 percent of any secondary façade wall shall be clad in one or more of the following exterior materials:

a. Natural or artificial stone;

b. Brick or textured concrete masonry units;

c. Wooden timbers;

d. Wooden siding, including clapboard or shingles;

e. Cementitious siding, configured as sheet material, clapboard, or shingles;

f. Traditional stucco applied over a lath backing;

g. Architectural metal, including aluminum composite or insulated metal panels, with concealed fasteners; or

h. Non-mirrored glass.

05. PROHIBITED EXTERIOR MATERIALS

In no instance shall any of the following exterior materials occupy any portion of a primary or secondary building façade wall:

a. Concrete panels or other material approximating the appearance of pre-cast concrete, whether smooth or textured;

b. Through-fastened metal siding (exposed screws);

c. Thin-gauge, roll-formed sheet metal regardless of color or coating;

d. Smooth-face concrete block or concrete masonry units;

e. Vinyl siding (permissible as soffit and fascia);

f. EIFS or synthetic stucco;

g. Asphalt shingles or siding; or

h. Mirrored glass.

06. EXTERIOR MATERIAL CONFIGURATION

a. Where two or more materials are proposed on a building façade, the heavier or more massive material (like stone) shall be located below the lighter or less massive material (like stucco).

b. Heavier materials may be permitted above lighter materials as details on corners or around doors and windows.

c. Material changes shall take place at locations such as the intersection of building wings, building articulation features, the intersection of differing storefronts or leaseholds, interior corners, or other logical locations.

d. Material changes shall not take place at outside corners and material returns shall be included to a logical termination point past an exterior building corner such as a bump-out, building wing, or change in wall direction (see Figure <>: Non-Residential Building Material Configuration).

FIGURE <>: NON-RESIDENTIAL BUILDING MATERIAL CONFIGURATION

LEGEND

- A Heavier Materials Below Lighter Materials
- B Heavier Details on Corners or Around Doors and Windows
- C Material Changes at Logical Locations (Not Permitted on Outside Corners)

07. PRIMARY BUILDING WALL COLOR

a. PREDOMINANT COLORS

Neon or "day-glow" colors shall not be used as predominant exterior building colors. Nothing shall limit the use of pastel or traditional community material colors as predominant colors.

b. ACCENT COLORS

Building accent colors may be brighter than predominant colors, but accent colors shall not comprise more than 15 percent of any primary or secondary building wall facade.

08. BUILDING ADDRESS NUMBERS

a. Every principal building subject to these standards shall include the building's street address above or adjacent to the primary building entrance.

b. Building address numerals shall comply with the Henderson County Property Addressing Ordinance.

09. MULTI-BUILDING DEVELOPMENT

Development composed of multiple buildings totaling 30,000 gross square feet or more shall be configured in one or more of the following ways (see Figure <>, Non-Residential Multi-building Development):

a. Break up the site into a series of smaller "blocks" defined by on-site streets;

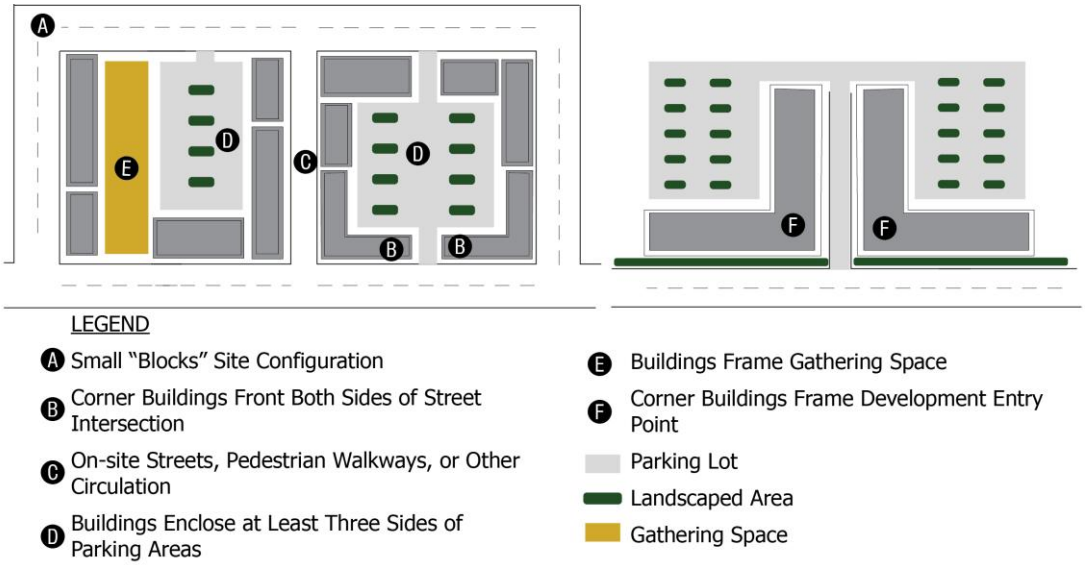
b. pedestrian walkways, or other circulation routes;

c. Locate the buildings around the corner of an adjacent street intersection or entry point to the development;

d. Enclose parking areas, public spaces, or other site amenities on at least three sides through the placement of buildings; or

e. Enclose outdoor dining or gathering places between buildings.

FIGURE <>: NON-RESIDENTIAL MULTI-BUILDING DEVELOPMENT



10. OUTPARCELS

Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see Figure <>: Non-Residential Outparcel Development):

a. Buildings on outparcels or pad sites shall incorporate materials that are similar to and compatible with those used on the primary buildings in the development. Corporate or prototypical architecture shall be reconfigured as necessary in order to comply with this standard.

b. Building walls associated with development on an outparcel or pad site shall be configured solely in accordance with the articulation and fenestration provisions for primary or secondary walls, as appropriate, for the main buildings in the development.

c. Spaces between buildings on outparcels or pad sites shall include pedestrian amenities such as plazas, seating areas, and gathering places in addition to off-street parking spaces.

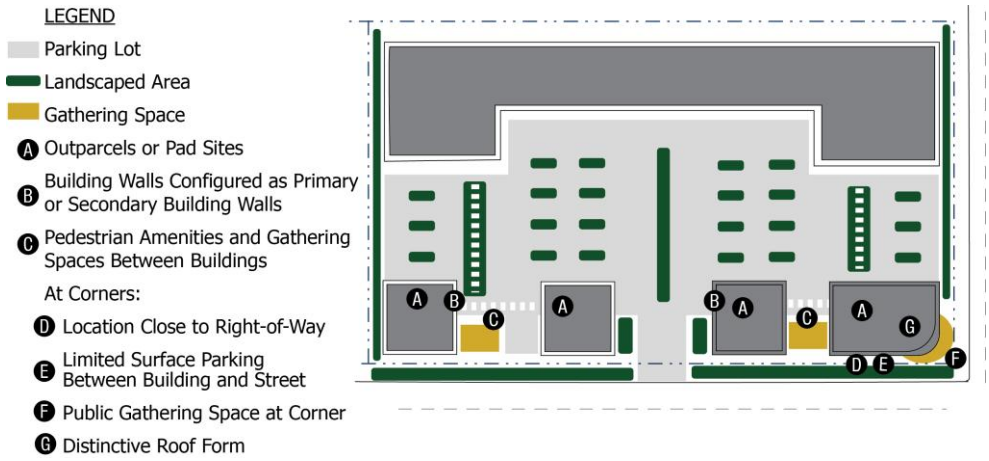
d. Outparcel buildings on lots at street corners shall be located and configured to define the corner through a combination of two or more of the following features:Locating the building as close to the rights-of-way as is practicable;

ii. Limiting surface parking between the building and the streets;

iii. Providing a public gathering space adjacent to the corner; and

iv. Use of distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

FIGURE <>: NON-RESIDENTIAL OUTPARCEL DEVELOPMENT



6.3.3. MIXED-USE DESIGN STANDARDS

A. PURPOSE AND INTENT

The purpose for these standards is to create vibrant, pedestrian-oriented areas of residential and non-residential use that are located in the same building or in close proximity to one another on the same site. More specifically, these standards are intended to:

01. Create well-designed, desirable places for Town residents and visitors to shop, dine, recreate, and live;

02. Ensure mixed-use development is compact and walkable;

03. Shorten travel times and support alternative modes of transportation by reducing the need for automobile travel within core areas of the Town;

04. Encourage human-scaled development that is pedestrian-oriented;

05. Reduce development costs by facilitating development in areas easily served by public infrastructure; and

06. Accommodate both vertically mixed-use development within an individual building as well as horizontally mixed-use development on a single site.

B. APPLICABILITY

The standards in this section shall apply to all the following.

01. New development within the TNC district;

02. New live/work dwellings;

03. New development that includes upper-story residential use types; and

04. Any new development that includes principal use types from the residential and commercial, industrial, or institutional use classifications in Table <>, Table of Common Principal Uses, within the same building or within the same development site.

05. Redevelopment, alteration, or changes of existing principal uses in development established prior to (*insert the effective date of this Ordinance*) that result in development that includes principal use types from the residential and commercial, industrial, or institutional use classifications in Table <>, Table of Common Principal Uses, within the same building or within the same development site.

06. In cases where development comprised of both residential principal use types as well as principal uses from the commercial, industrial, or institutional use classification that existed prior to (*insert the effective date of this Ordinance*) is altered to increase the amount of impervious surface on a site, the development shall comply with the standards in this section.

07. In cases where development comprised of both residential principal use types as well as principal uses from the commercial, industrial, or institutional use classification that existed prior to (*insert the effective date of this Ordinance*) is altered to increase the amount of floor area of a principal use or increase the building footprint of a principal use, the development shall comply with the standards in this section.

08. These mixed-use design standards apply to all buildings located within a mixed-use development, whether vertically integrated in a single building or horizontally integrated in two or more side-by-side buildings on a single site.

C. EXEMPTIONS

These standards shall not be applied to the following forms of development:

01. Non-residential development, which shall instead comply with the standards in Section <>, Non-Residential Design Standards; and

02. Development located within the RUM district.

D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, Site Plan, Subdivision, Special Use Permit, or Zoning Compliance Permit, as appropriate.

E. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

01. BUILDING ORIENTATION

a. SINGLE BUILDING

Development consisting of a single building shall be oriented such that the long axis of the building is either parallel or perpendicular to the street right-of-way it faces. This standard may be waived when topographic constraints make compliance impractical, in the sole discretion of the Planning Director.

b. MULTIPLE BUILDING DEVELOPMENT

Development comprised of multiple buildings shall be configured with two or more of the following design elements (see Figure <>, Multiple Building Development):

i. Site configuration as a series of smaller "blocks" defined by buildings fronting on-site streets and internal vehicle accessways, utilizing pedestrian-oriented design such as walkways, or other circulation routes and multi-modal transportation access/waiting areas when appropriate;

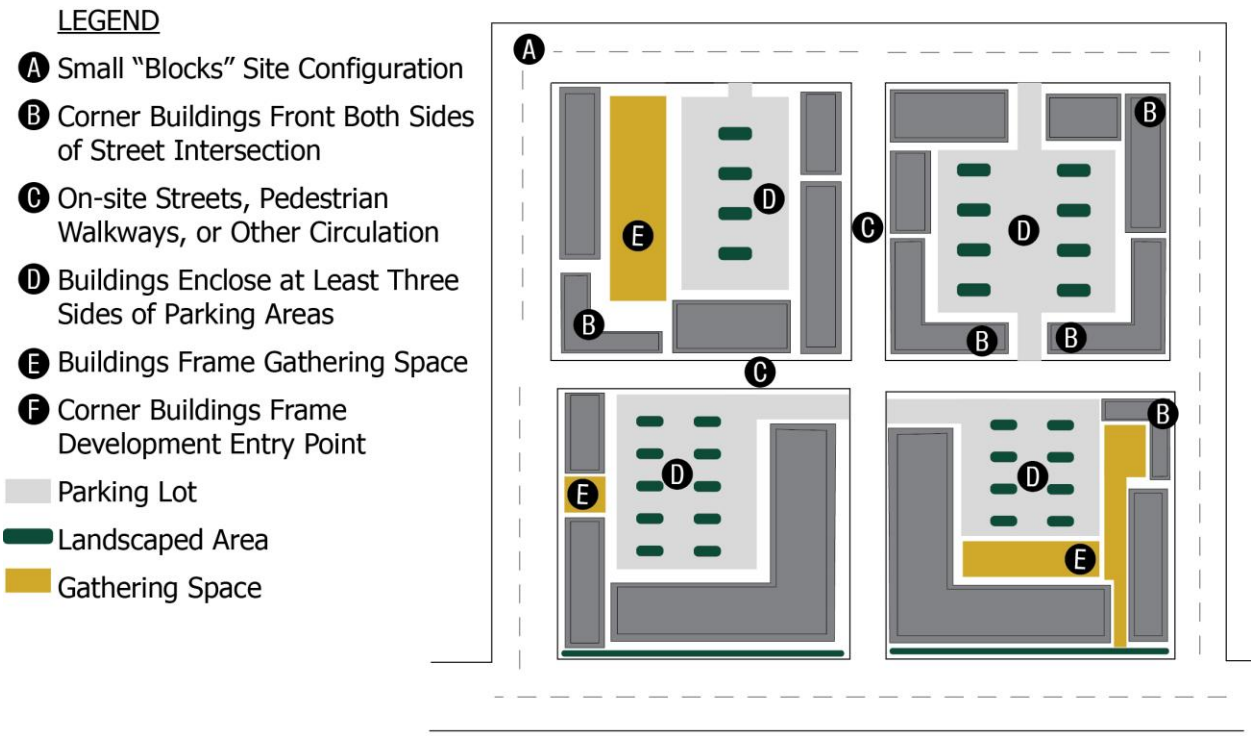
ii. Corner buildings designed to front both sides of an adjacent street intersection or entry point to the development in an "L" configuration;

iii. Buildings facing each other across a relatively narrow vehicular access area with pedestrian amenities in a "main street" character;

iv. Buildings enclosing at least three sides of parking areas, public spaces, or other site amenities; or

v. Buildings framing outdoor dining or gathering spaces for pedestrians between buildings.

FIGURE <>: MULTI-BUILDING DEVELOPMENT



02. MIXED-USE BUILDING LOCATION

a. In the case of double or reverse frontage lots, the building shall be located adjacent to the street providing the street address for the building. When development is proposed on a corner lot, the building shall be configured to occupy the lot corner at the street intersection.

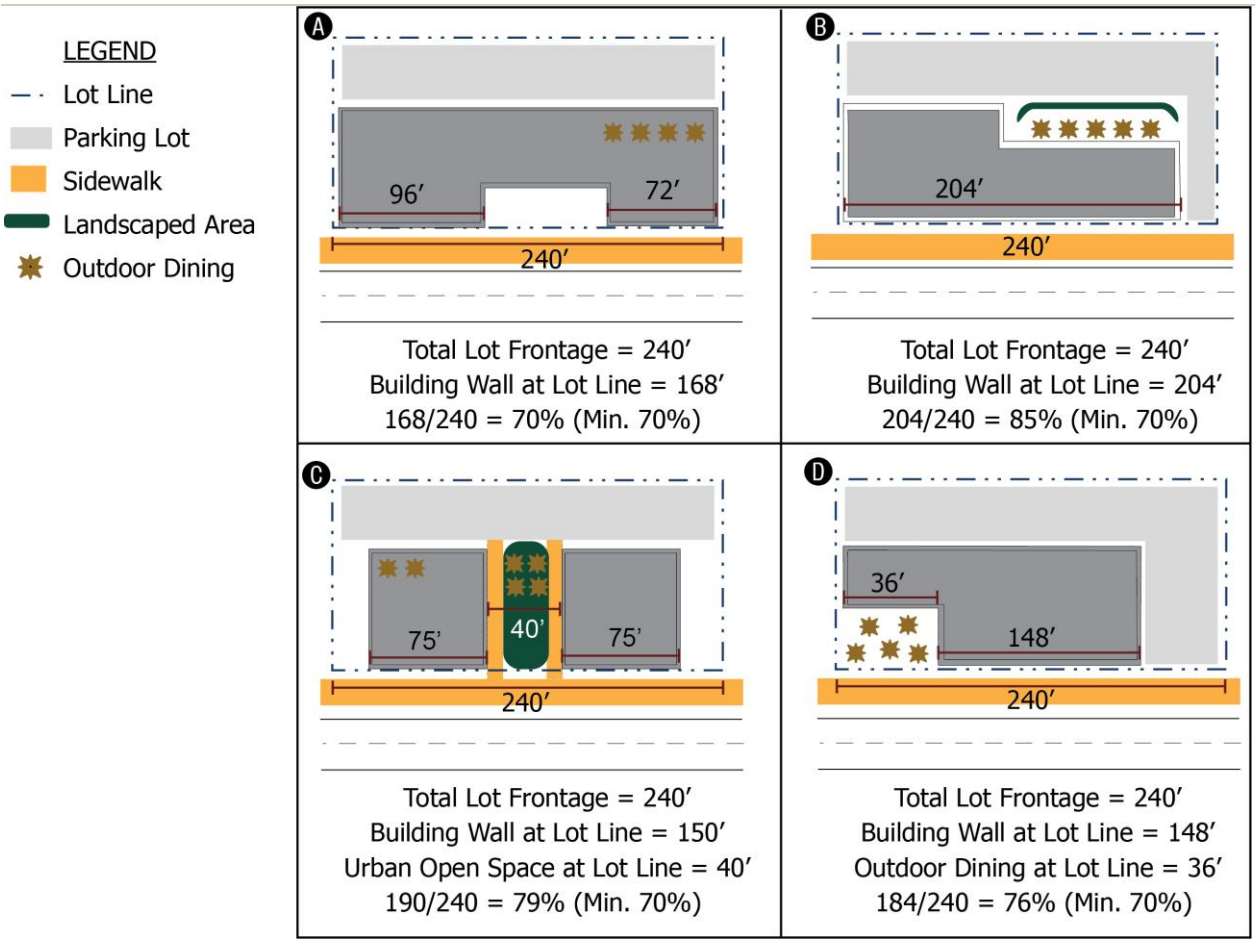
c. Nothing shall prevent a mixed-use building from exceeding a maximum street setback, provided the area between the building front and the maximum street setback is occupied by a public gathering space or an area used for outdoor dining and seating.

OCCUPIED FRONTAGE REQUIREMENTS

a. In order to ensure an inviting and desirable streetscape for pedestrians, mixed-use development shall be configured so that at least 70 percent of the lot frontage is occupied by building wall (see Figure <>, Occupied Frontage).

b. Areas occupied by gathering areas (like plazas or outdoor dining areas) shall be credited towards the lot frontage requirements.

FIGURE <>: OCCUPIED FRONTAGE



04. GROUND FLOOR CONFIGURATION

a. The ground floor of mixed-use buildings shall be configured to meet the North Carolina Building Code requirements for commercial development regardless of whether the building's ground floor is intended for a residential use type or not.

b. Except for buildings required to include ADA-accessible dwelling units, the portion of the building including the primary façade of the street-level ground floor shall be occupied by a non-residential use with a minimum depth equivalent to one-third of the building's total depth.

c. Nothing shall limit the rear two thirds of the street level floor from being used for residential purposes.

d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

05. OFF-STREET PARKING LOCATION

At least 60 percent of the provided off-street parking spaces provided shall be located to the side or rear of buildings subject to these standards.

06. BUILDING ARTICULATION

Buildings subject to these standards shall be configured so that no primary or secondary building facade wall shall extend for longer than 35 linear feet without inclusion of one or more of the following features (see Figure <>, Mixed-Use Building Articulation):

a. The use of projections or recesses in the building façade wall with a minimum depth of 18 inches from the primary facade plane and a minimum span of eight feet;

b. The use of columns, pilasters, or other architectural detail harmonious with the general design of the structure with a minimum width of eight inches and spaced no less than every ten feet on-center;

c. Distinct changes in building material that are vertically aligned with variations in roof form and parapet heights;

d. Inclusion of weather protection for pedestrians, such as awnings, canopies, or overhangs above doors and windows as found along the entire building frontage abutting a street. Weather protection shall extend outwards from the building façade at least five feet. Execution of an encroachment agreement is required in cases where weather protection features extend into the public right-of-way; orA single vertical accent or focal point such as a tower feature located on a prominent building corner.

FIGURE <>: MIXED-USE BUILDING ARTICULATION

LEGEND

- **A** Projections or Recesses in the Facade Wall (Depth Between 18-36" and Min. Span 8')
- **B** Columns, Pilasters, or Other Architectural Detail (Spaced Max. 10' On-center)
- **C** Changes in Building Material (Vertically Aligned with Roof Form Changes)
- **D** Weather Protection (Over windows and doors)
- **E** Single Vertical Accent Point on Corner

07. BUILDING ENTRANCES

a. Principal structures must be oriented with their main entrance facing the street upon which the project fronts.

b. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.

c. Entrances serving mixed-use buildings shall include at least two of the following features (see Figure <>, Mixed-Use Building Entrances):

i. Canopies or porticos;
ii. Overhangs;
iii. Recesses/projections;
iv. Soldier courses or story lines;
v. Galleries or arcades;
vi. Raised corniced parapets over the door;
vii. Peaked roof forms;
viii. Arches;
ix. Architectural detail such as tile work and moldings integrated into the building structure and design; or
x. Integral planters that incorporate landscaped areas and places for sitting.

FIGURE <>: MIXED-USE BUILDING ENTRANCES

08. BUILDING FENESTRATION

a. Blank, windowless walls facing sidewalks, streets, and other public places shall be prohibited.

b. At least 40 percent of the first-floor facade facing a street shall be transparent, whether through the use of glass windows, doors, or both (see Figure <>, Mixed-Use Building Fenestration), except where the first floor is utilized solely for a residential use in which case the transparency requirement shall be reduced to 25 percent.

c. At least 25 percent of each upper story façade facing a street shall be transparent.

d. Ventilation grates or emergency exit doors located at the first-floor level oriented toward a street shall be decorative.

FIGURE <>: MIXED-USE BUILDING FENESTRATION

Ⓐ Upper Story Facade =
10′ x 60′ = 600 sf

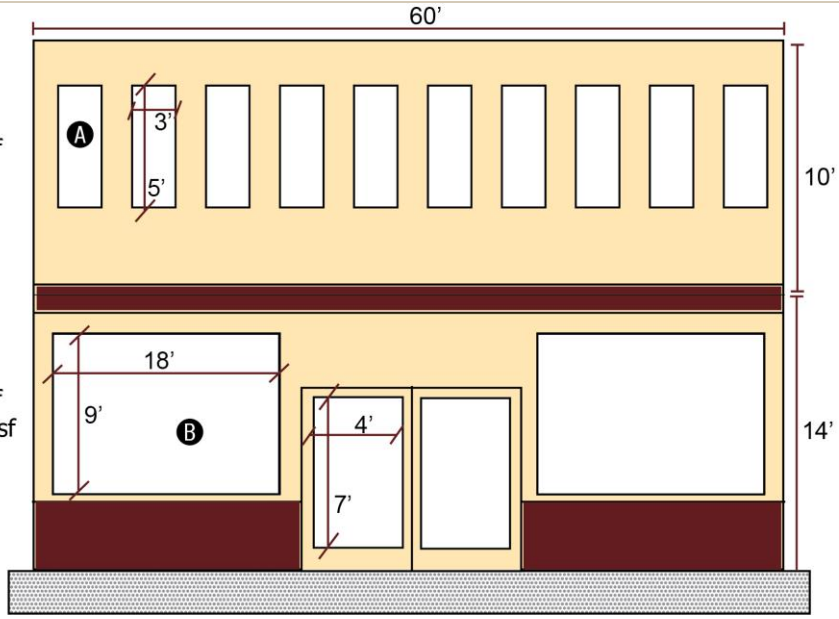
Fenestration =
10 Windows x 15 sf = 150 sf

Percent Transparent =
150 ÷ 600 = **25%**
(Minimum 25%)

Ⓑ First Floor Facade =
14′ x 60′ = 840 sf

Fenestration =
2 Windows x 162 sf = 324 sf
Glass Portion of Doors = 56 sf

Percent Transparent =
380 ÷ 840 = **45.2%**
(Minimum 40%)



09. ROOF FORM

a. Roof pitches on buildings subject to these standards located within the TNC and MXR districts that are less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street.

b. Parapet walls shall have decorative cornices or caps.

c. A pitched roof shall have eaves that extend a minimum of 12 inches from the building face.

d. Roof-mounted mechanical equipment on a pitched roof on buildings located in the TNC and MXR districts shall be screened or otherwise camouflaged from view from the street.

6.3.4. MULTI-FAMILY DESIGN STANDARDS

A. PURPOSE AND INTENT

These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing the minimum requirements for design and configuration of multi-family development within the Town's planning jurisdiction. They are intended to:

01. Ensure multi-family development takes place in a manner consistent with the context, scale, and proportion of its surroundings;

02. Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent single-family detached residential dwellings;

03. Establish expectations for minimum level of quality for multi-family development;

04. Encourage creativity in design and promote individual project identity;

05. Create neighborhoods with enhanced architectural and visual interest; and

06. Preserve property values and protect public and private investment.

B. APPLICABILITY

01. GENERALLY

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

a. New multi-family buildings;

b. New multi-unit residential structures within a continuing care retirement community use type;

c. New residential treatment facilities;

d. New congregate care buildings containing residential uses; and

e. Redevelopment alteration, or changes in use after (*insert the effective date of this Ordinance*) that establish or expand a multi-family residential use.

02. EXEMPTIONS

The following forms of development shall be exempted from these standards:

a. Routine maintenance of existing lawfully-established multi-family buildings; and

b. Development of detached multi-family development consisting of two or more detached structures located on one lot under common ownership.

03. VOLUNTARY COMPLIANCE

a. Townhouse development shall be subject to these standards in cases where compliance is included as a condition of approval associated with a conditional rezoning or when the applicant agrees to voluntarily comply with them. In such cases, a signed copy of the following statement shall be included on all approved site plans and plats.

VOLUNTARY COMPLIANCE WITH MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

The townhouse development depicted on the attached site plan or subdivision plat is subject to the Town of Mills River's Multi-family Design Standards in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design standards, the acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable requirements following approval is a violation of the Mills River Unified Development Ordinance.

_____ _____

Landowner Signature Date

b. The signed statement of consent and an associated plan depicting how the development complies with these standards shall be recorded in the office of the Register of Deeds for Henderson County prior to issuance of a Zoning Compliance Permit.

C. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated Conditional Rezoning, Site Plan, Subdivision, Special Use Permit, or Zoning Compliance Permit, as appropriate.

D. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

01. MULTI-FAMILY STREET NETWORK

a. On sites including new streets, whether public or private, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

b. Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection, to the maximum extent practicable.

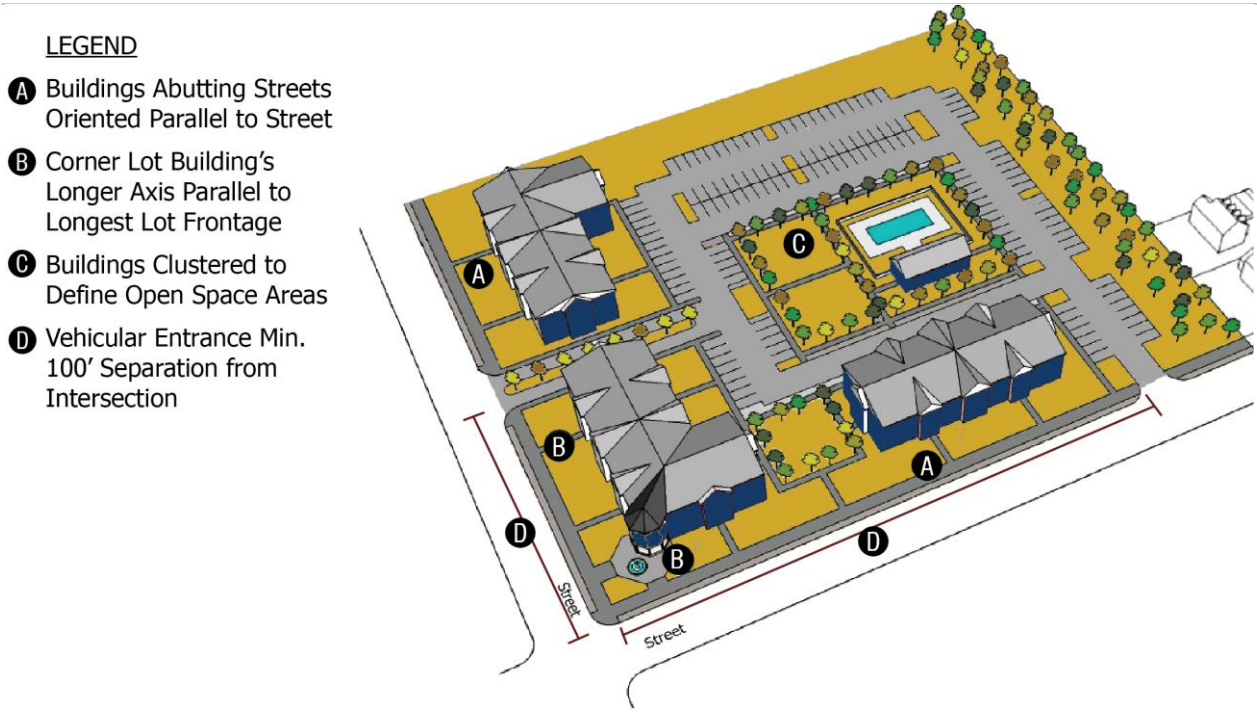
c. Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

02. BUILDING ORIENTATION

a. Buildings fronting and located within 100 feet of an abutting street shall be oriented parallel to the street they front rather than being oriented at an angle to the street.On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure <>, Multi-family Building Orientation).

c. Buildings within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.

FIGURE <>: MULTI-FAMILY BUILDING ORIENTATION



03. BUILDING ENTRANCES

a. The facades of buildings abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.

b. Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkways to individual upper-story dwelling units take place on the exterior of the building.

c. Individual ground-floor and shared entryways shall be sheltered from the weather either by:

i. Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or

ii. Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

04. BUILDING FACADES

a. Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade.All building facades shall provide a minimum of three of the following architectural elements (see Figure <>, Multi-Family Building Facades):

i. A covered porch or terrace;

ii. Two or more dormer windows or cupolas;

iii. Eyebrow windows;

iv. Awnings or overhangs;

v. Decorative moldings;

vi. Shutters on at least three quarters of the windows;

vii. Pillars, posts, or pilasters;

viii. Two or more bay windows with a minimum twelve-inch projection from the facade plane;

ix. Multiple windows with a minimum of four-inch-wide trim;

x. Eaves with a minimum of four-inch-wide trim; or

xi. Integral planters that incorporate landscaped areas and/or places for sitting.Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade.

d. Attached garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.

FIGURE <>: MULTI-FAMILY BUILDING FACADES

05. FAÇADE VARIATION IN MULTI-BUILDING DEVELOPMENTS

Multi-family developments with three or more principal buildings shall provide variation between the different buildings in accordance with the following standards:

a. MINIMUM NUMBER OF VARIATION ELEMENTS TO BE INCLUDED

Multi-family development comprised of three or more principal buildings shall incorporate a minimum number of variation elements in accordance with Table <>: Multi-Family Building Variability:

TABLE <>: MULTI-FAMILY BUILDING VARIABILITY

NUMBER OF PRINCIPAL BUILDINGS IN THE MULTI-FAMILY DEVELOPMENT	MINIMUM NUMBER OF VARIATION ELEMENTS TO INCLUDE [1] [2]
Three to Five	Two
Six to Eight	Three
Nine to Eleven	Four
Twelve or More	Five
NOTES:	[1] Variation elements must be provided on each different building. All or the majority of the features may not be located on a single building. [2] The menu of different variation elements are listed in Section <>, Menu of Variation Elements.

b. MENU OF VARIATION ELEMENTS

Multi-family developments comprised of three or more principal buildings shall provide the minimum number of the following variation elements in accordance with Table <>: Multi-Family Building Variability. The applicant may select which elements to include. Nothing shall prevent a development from including more than the minimum number of required building variation elements.One or more principal buildings has a maximum height of one or more stories either greater than or less than average number of stories of the other principal buildings.

ii. One or more of the principal buildings has a footprint that differs in square footage by 25 percent or more than the average principal building footprints of the other principal buildings.

iii. One or more of the principal buildings has a different primary exterior color than the other principal buildings.

iv. One or more principal buildings has a different primary exterior material than the other principal buildings (use of the same material with a different color is insufficient). Use of brick as a primary material on all principal buildings shall be credited as compliance with this element.

v. One of more of the principal buildings has a different roof style (gabled, shed, flat, hip, etc.) than the other principal buildings (use of the same combination of roof forms on each principal building is insufficient).

vi. One or more of the buildings has a different roof material than the other principal buildings (use of the same material with a different color is insufficient). Use of roof-mounted solar panels over 40 percent of one principal building's roof shall be credited as compliance with this element.

vii. One or more of the principal buildings shall be oriented with the long axis of the principal building perpendicular to the street that serves the primary entrance of the development.

viii. One or more of the principal buildings includes overhangs, roofs, or coverings for all patios, balconies, or terraces.

ix. One or more of the principal buildings is configured so that all the windows incorporate a canopy, awning, overhang, or other covering.

x. An alternative that differs from those listed that meets the intent of these standards, in the opinion of the Planning Director.

06. BUILDING MASSING

a. Upper-story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows.

b. In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first-floor façade walls.

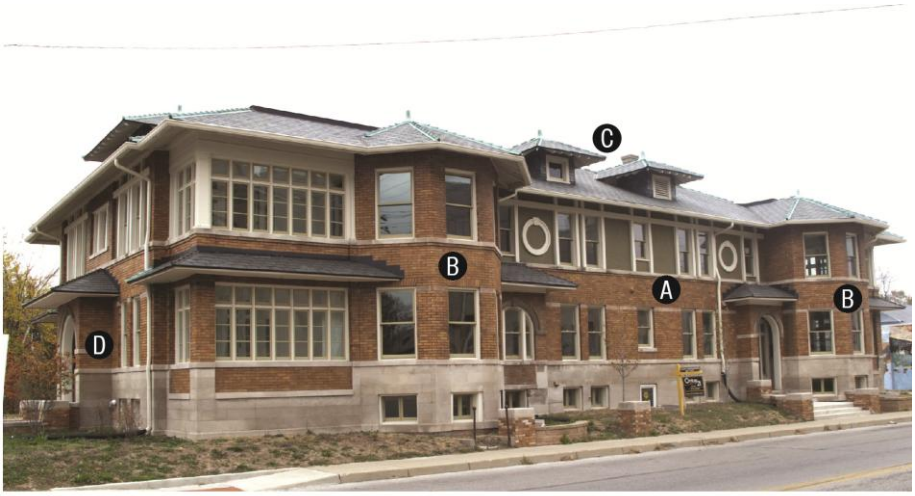
07. BUILDING ARTICULATION

a. Building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of facade frontage (see Figure <>, Multi-family Façade Articulation).Projections or recesses shall occupy at least one building floor, and may extend downwards to the grade or upwards beyond the primary roof line.

FIGURE <>: MULTI-FAMILY BUILDING ARTICULATION

LEGEND

- A Primary (street-facing) Facade
- B Minimum 2' Articulation Every 35 Linear Feet
- C Projections Extend Beyond Primary Roof Line
- D Entry Feature



08. ROOF FORM

a. New multi-family development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate parapet walls with a dimensional cornice around a flat roof.

b. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.

c. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, or articulation feature.

d. Overhanging eaves and roof rakes shall extend at least six inches beyond supporting walls.

09. BUILDING MATERIAL AND COLORS

a. CONFIGURATION

i. Buildings subject to these standards shall include at least two primary exterior materials on any single building.

ii. Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure <>, Multi-Family Building Materials). In no instance shall exterior materials or colors change at outside corners.

iii. Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

b. PROHIBITED MATERIALS

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

i. Vinyl, asphalt, or aluminum siding;

ii. Smooth-faced concrete block or concrete masonry units;

iii. Through-fastened metal siding (exposed screws);

iv. Thin-gauge, roll-formed sheet metal regardless of color or coating;

v. Smooth-face concrete block or concrete masonry units;

vi. Vinyl siding (permissible as soffit and fascia); or

vii. EIFS or synthetic stucco.

FIGURE <>: MULTI-FAMILY BUILDING MATERIALS

LEGEND

- **A** Minimum Two Primary Exterior Materials on Each Building
- **B** Material Changes at Logical Locations (Internal Corners, Wings, Bays, Bump-outs, or Recesses)
- **C** Heavier Materials Below Lighter Materials

10. SECONDARY STRUCTURES

In addition to the standards in Section<>, Secondary Uses, secondary uses and structures associated with a multi-family development subject to these standards shall comply with the following:

a. Street-facing detached garages on corner lots shall be located to the side or rear of buildings;

b. Access to secondary structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets to the maximum extent practicable;

c. Secondary buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure;

d. Secondary structures shall not physically obstruct pedestrian entrances; and

e. Centralized refuse collection containers, if provided, shall be in an enclosed area located to the rear of principal buildings.

11. MULTI-FAMILY SITE FEATURES

a. Off-street parking serving guests shall be evenly distributed throughout the development.

b. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.

c. Detached garages or carports shall not be located between the principal building and the street it faces.

d. Utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

6.3.5. SINGLE-FAMILY RESIDENTIAL DESIGN GUIDELINES

A. PURPOSE AND INTENT

These single-family residential design guidelines are proposed as ways to ensure that new single-family detached, duplex, triplex, and quadplex housing is high-quality, aesthetically pleasing, and provides a wide variety of living options for Town residents. More specifically, these guidelines are intended to:Ensure single-family detached, duplex, triplex, and quadplex homes maintain consistent exterior materials and architectural treatments on the front and sides of buildings;Establish guidance regarding changes of exterior finishes and materials on individual facades;

03. Avoid garage-dominated street fronts in residential neighborhoods;

04. Encourage duplex structures to appear as single-family homes; and

05. Ensure an adequate level of variability in home design so as to avoid monotonous streetscapes where every dwelling appears identical or very similar to its neighboring dwellings.

B. APPLICABILITY

01. Single-family detached, duplex, triplex, and quadplex dwellings shall comply with these guidelines in the following instances:

a. When proposed development is subject to a signed statement of consent in accordance with Section <>, Statement of Consent; and

b. When compliance with these guidelines is included as a condition of approval associated with a Conditional Rezoning (see Section <>, Conditional Rezoning).

02. Single-family detached, duplex, triplex, and quadplex dwellings not subject to a statement of consent are not required to comply with these guidelines, though conformance is strongly encouraged.

C. STATEMENT OF CONSENT

01. In cases where an applicant chooses to voluntarily comply with the guidelines in this section, the landowner shall sign the following statement of consent and include it with the application for a Preliminary Plat, Final Plat, Special Use Permit, Site Plan, or Zoning Compliance Permit, as appropriate.

VOLUNTARY COMPLIANCE WITH RESIDENTIAL DESIGN GUIDELINES

The single-family detached, duplex, triplex, or quadplex depicted on the attached site plan, subdivision plat, or other development approval is subject to the Town of Mills River's Single-Family Residential Design Guidelines in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design guidelines, this acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable guidelines following approval is a violation of the Mills River Unified Development Ordinance.

_____ _____

Landowner Signature Date

02. The signed statement of consent and the development approval shall be recorded in the office of the Register of Deeds for Henderson County prior to issuance of a Zoning Compliance Permit.

03. When the guidelines are to be applied to lots within a subdivision, the Final Plat shall include a disclosure statement that all lots shown on the plat shall be subject to these guidelines.

D. DESIGN FEATURES

01. SIDE AND REAR FACADES

a. Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a building shall incorporate architectural detailing and windows that complement the front facade and provide visual interest.

b. Blank walls void of windows and architectural detailing are prohibited when adjacent to a street.

02. FOUNDATION MATERIALS

a. Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations shall be covered by decks, porches, or be clad in face brick, stone, stucco, or some other masonry material accurately imitating these materials. In cases where a dwelling includes a finished or unfinished basement, the exterior basement walls on the rear or on sides not visible from streets are exempted from these standards.

03. MATERIAL CHANGES

a. Exterior materials on the front façade shall not change at outside corners, but shall continue along side or rear facades for a minimum distance of at least five feet. Wherever possible, materials shall continue to a logical termination point such as a change in roof line or where a separate wing meets the main body of the dwelling (see Figure <>, Exterior Material Changes).

b. Exterior material changes shall take place along a horizontal line where two forms meet, such as the wall and the foundation, the first and second stories, or the wall and roof. It is acceptable for material changes to be configured as architectural accents in areas around windows, doors, cornices, at corners, or in a repeating pattern across a façade.

c. Where two or more exterior materials meet or are combined, the heavier or more massive material shall be located below the lighter element(s). For example, brick below wood siding, stone below brick, wood siding below stucco, etc.

d. It is acceptable for heavier materials to be used as accents around doors, windows, and corners.

FIGURE <>, EXTERIOR MATERIAL CHANGES

LEGEND

- A Materials Change at Least 5' Past Outside Corners
- B Materials Change at Logical Points
- C Heavier or More Massive Material Below Lighter Material
- D Heavier Materials Acceptable as Accents Around Doors, Windows, and Corners

04. PROHIBITED MATERIALS

a. The use of corrugated metal siding, unpainted plywood, or smooth-faced concrete block is prohibited.

b. Synthetic stucco or EIFS shall be prohibited within two feet of the finished grade.

05. STREET-FACING GARAGES

a. MAXIMUM DOOR WIDTH

Street-facing garage doors configured in accordance with these guidelines shall not exceed a maximum width of 18 feet per garage door.

b. LOCATION

The placement of the primary entrance closer to the street than a street-facing garage door is strongly encouraged, but in no instance shall a primary dwelling entrance be more than nine feet farther from the street than a street-facing garage door that faces the same street as the dwelling entrance.

c. DESIGN FEATURES

Street-facing garages configured in accordance with these guidelines shall incorporate at least three of the following design features on the building wall containing the garage doors (see Figure <>, Garage Door Design Features):

i. Each garage door shall include transparent or opaque windows;

ii. Garage doors shall incorporate decorative hinges or hardware that may be functional or aesthetic;

iii. Garage doors shall include an overhang, eave, trellis, arbor, awning, or other similar architectural feature that projects at least 16 inches beyond the facade directly above the garage door(s);

iv. Garage doors shall be flanked on either side by vertical design elements like columns, pilasters, posts, or similar vertical feature; or

v. The street-facing garage door(s) are located at least two or more feet behind a front porch or the primary entrance to the dwelling facing the same street.

FIGURE <>: GARAGE DOOR DESIGN FEATURES

LEGEND

- A Transparent or Opaque Windows
- B Decorative Hinges or Hardware
- C Overhang, Eave, or Arbor
- D Vertical Design Elements on Either Side
- E Garage Doors Min. 2' Behind Front Porch or Entrance

06. SIDE-LOADED GARAGES

Side-loaded garage doors configured in accordance with these guidelines may be closer to the street they face than the primary entrance to the dwelling is to the street it faces, provided the garage facade facing the street includes compatible design features found on other building facades, including but not limited to:

a. Windows;

b. Eaves;

c. Overhangs;

d. Decorative trim;

e. Material changes; or

f. Other architectural features included for the sake of compatibility with the building's other facades.

07. DUPLEX, TRIPLEX, AND QUADPLEX ENTRANCES

a. A duplex, triplex, or quadplex structure shall be organized so as to give the appearance of being a large single-family detached home. This can be achieved by placing primary entrances of different units on separate building facades or via a single, shared primary entrance.

b. A single shared main entry door is strongly encouraged.

c. In no instance shall the primary façade of the building contain fewer than one dwelling entrance.

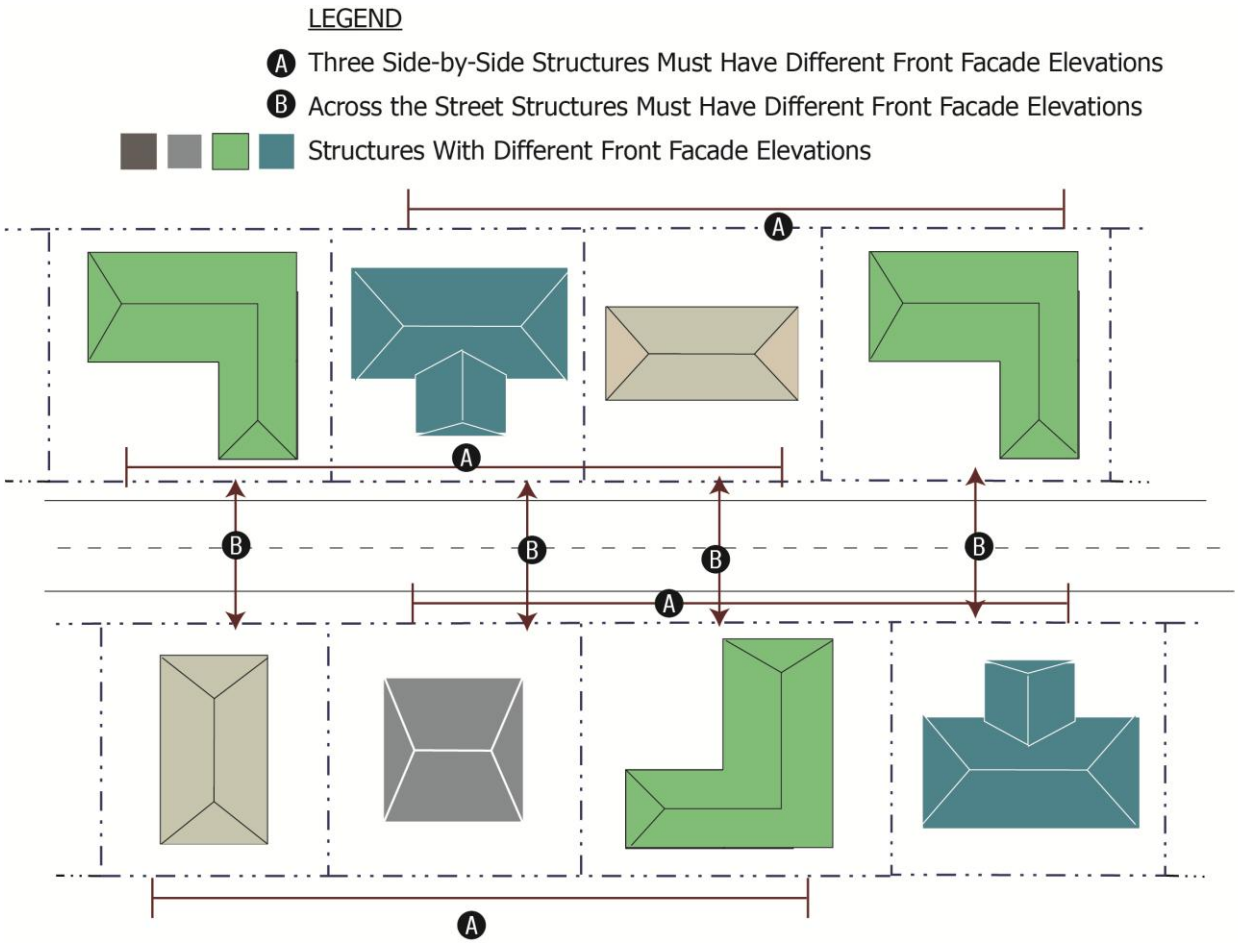
08. VARIABILITY

a. A continuous row of identical buildings along a block shall be prohibited. Each building shall include "distinctly different" front facade elevations within any single phase of the development such that:

i. No three structures that are side-by-side may have the same front façade elevation; and

ii. No structures directly across the street from one another shall have the same front facade elevation (see Figure <>: Distinctly Different).

FIGURE <>: DISTINCTLY DIFFERENT



b. For the purposes of this section, "distinctly different" shall mean that a dwelling must differ from other adjacent and opposing dwellings (on the other side of the street) in at least four of the following ways (see Figure <>: Distinction Options):A discernable exterior primary color variation, not a slight variation of a similar hue, such as beige or pastel;

ii. Variation in primary exterior materials;

iii. Use of two or more distinct variations in roof forms (e.g., gable, hip, shed, mansard, gambrel, flat, or other);

iv. Variations in the number of building stories of at least one story;

v. Variation in the amount of habitable space by 400 square feet or more;

vi. A change in the depth of the setback from the street which gives the dwelling its street address by 15 feet or more;
vii. A change in side yard setbacks on both sides by 15 feet or more;
viii. Changes in the type and color of roofing material on structures with pitched roofs;
ix. The orientation of the longest building axis to the street the dwelling faces, whether parallel, perpendicular, or at an angle; or
x. The orientation of primary roof ridgeline to the street the dwelling faces, whether parallel, perpendicular, or at an angle.

FIGURE <>: DISTINCTION OPTIONS

LEGEND

- A Color
- B Exterior Materials
- C Roof Form
- D Number of Stories
- E Amount of Habitable Space
- F Depth of Setback
- G Roofing Type/Color
- H Orientation of Building Axis to Street
- I Orientation of Primary Roof Ridgeline

Each pair of houses is distinctly different for the reasons indicated:

§ 6.4 EXTERIOR LIGHTING[13]

6.4.1. PURPOSE AND INTENT

The purpose of these standards is to control light trespass and glare so as not to adversely affect motorists, pedestrians, or adjacent properties. Lighting intensities should be controlled to assure public health, safety, and welfare. Further, it is the intent of this section to:

A. Maintain the minimal amounts of exterior lighting needed for night-time safety, security, commerce, and enjoyment;

B. Minimize the adverse off-site impacts of light pollution such as glare, and light trespass, and obtrusive light;

C. Curtail light pollution, reduce skyglow, and preserve the dark sky night environment;

D. Promote the conservation of energy;

E. Help protect the natural environment from the adverse effects of nighttime lighting; and

F. Provide adequate lighting for pedestrian and bicycle safety.

6.4.2. APPLICABILITY

A. GENERALLY

01. Unless exempted in accordance with Section <>, Exemptions, the provisions of this section shall apply to all new non-residential, mixed-use, multi-family, townhouse, duplex, triplex, or quadplex development approved after (*insert the effective date of this Ordinance*).

02. Compliance with all the applicable standards in this section shall be also be required in the following cases:

a. An existing principal use established before (*insert the effective date of this Ordinance*) is changed to a different principal use that is subject to these standards;

b. A development established prior to (*insert the effective date of this Ordinance*) is changed in ways that increase the amount of impervious surfaces on the site; and

c. A principal use or structure established before (*insert the effective date of this Ordinance*) is increased in floor area or building footprint.

B. SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENT

Major residential subdivisions . shall comply with the standards in Section <>, Street Lights.

6.4.3. EXEMPTIONS

The following forms of exterior lighting or activities are exempt from the requirements of this section:

A. Flagpole lighting;

B. Sports and recreational facility lighting associated with an Institutional use type while in active use;

C. Development of an individual single-family detached dwelling or a townhouse unit on its own lot;

D. Temporary construction lighting;

E. Temporary lighting used for emergency conditions;

F. Low voltage landscape lighting located outside of a stream or surface water buffer;

G. Safety lighting within a stream or surface water buffer for the illumination of pedestrian or recreational areas;

H. Temporary holiday and seasonal lighting;

I. Exterior lighting required by federal, State, or local laws; and

---

[13] This section carries forward the Town's recently adopted changes to Section 154.117 of the Zoning Ordinance, with the following revisions: Definitions are relocated to new Chapter 8. Nonconforming lighting is revised in accordance with the Town's strategy for accommodating the new "Downzoning" bill and the amnesty to all existing development. These standards ban LED lights and neon lighting around windows and doors. The standards also include new mounting height limits. Maximum illumination values have been adjusted to apply based upon existing adjacent zoning.

J. Temporary lighting for Town-sanctioned or Town-approved community events;

6.4.4. LIGHTING PLAN REQUIRED

A. APPLICABILITY

An exterior lighting plan shall be required for all uses subject to these standards, including areas proposed for illumination.

B. EXCEPTION FROM PLAN REQUIREMENTS

An exterior lighting plan shall not be required for the establishment of new or redevelopment or alteration of an existing single-family detached dwelling. In cases where development proposes exterior lighting, but a lighting plan is not required, the development application shall indicate the following:

01. Exterior lighting fixture type(s);

02. Exterior lighting mounting height(s); and

03. A written statement by the applicant that all proposed exterior lighting complies with the applicable requirements in this section.

C. PROFESSIONAL PREPARATION

A lighting plan shall be prepared by a professional who is qualified to prepare such documents.

D. CONTENTS

An exterior lighting plan shall consist of the following:

01. A Site Plan or subdivision plat drawn to scale showing building(s), landscaping, parking and loading areas, internal roads, and proposed exterior lighting fixtures.

02. Location of all post, canopy, and wall-mounted light fixtures, including the height of each fixture, for any internal roadway, building, structure, parking, illuminated display area, or loading areas.

03. Specifications and fixture detail drawings of the proposed illuminating devices, lamps, and supports, including designation as Illuminating Engineering Society of North America (IESNA) "cut-off" fixtures. This description may include but is not limited to manufacturers catalog specifications, enlarged or reduced to the correct scale of the site plan, and drawings including sections where required.

04. Locations of all pole mounted and building mounted fixtures and a numerical 25-foot by 25-foot grid of minimum and maximum lighting levels by location, in foot-candles, that the fixtures will produce on the ground. An Isolux lighting plan is also permitted in fulfillment of this section provided that it indicates the foot-candles at grade by contour diagram or grid points that cover the site.

6.4.5. PROHIBITED LIGHTING

The following forms of exterior lighting shall be prohibited.

A. EXCESSIVE ILLUMINATION

Exterior lighting that exceeds the maximum allowable levels of illumination at a lot line, fails to maintain the minimum required level of shielding, or that creates glare on off-site areas shall be a violation of these standards and subject to the provisions in Chapter 7, Violations.

B. FLASHING OR REVOLVING

Flashing, revolving, or intermittent exterior lighting visible from any lot line or street is prohibited.

C. HIGH INTENSITY LIGHTING

The following forms of exterior lighting shall be prohibited:

01. High intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities;

02. LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure; or

03. Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources.

D. LUMINOUS TUBE LIGHTING

Luminous tube lighting (e.g., neon, rope lighting, etc.) is prohibited on building exteriors and in configurations where it outlines a window or glass door from the inside or outside of a structure. Nothing shall prevent the use of neon lighting as a sign when configured in accordance with Section <>, Signage.

E. TRAFFIC CONTROL SIGNALS

Lighting that imitates an official highway or traffic control light or sign or that is in the direct line of sight with any traffic control light or sign is prohibited.

6.4.6. STANDARDS

A. APPEARANCE

01. Exterior lighting fixtures shall be designed as an integral element that complements the design of the project through compatible style, material, and color.

02. Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.

03. Light poles, bases, and housings shall be matte or low-gloss finish to minimize glare from the light source.

B. ARCHITECTURAL LIGHTING

01. Shielded floodlights, spotlights, or any other similar lighting may be used to accent architectural elements but shall not be used to illuminate entire building facades.

02. Only lighting used to accent architectural features, landscaping, flags, or art may be directed upwards; however, such uplighting shall be shielded, directed away from off-site view, and shall be limited to a light source of 50 watts or less.

C. FIXTURE HEIGHT

01. Pole-mounted lighting fixtures shall be a maximum of 25 feet in height within a parking lot and shall be a maximum of 16 feet in height within non-vehicular pedestrian areas.

02. Wall-mounted lighting fixtures shall be within 12 feet of the adjacent grade.

03. Except within the TNC district, no exterior light fixtures, whether pole-mounted or wall-mounted, located within 50 feet of any single-family detached dwelling shall exceed 16 feet in height.

D. LAMP TYPE

01. Incandescent, fluorescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted. Other lamp types are allowed when the color emitted is similar to the permitted lamp types.

02. Low-pressure sodium, non-color-corrected high-pressure sodium, and mercury vapor light sources are prohibited.

03. The same lamp type must be used for the same or similar types of lighting throughout a development.

E. MAXIMUM ILLUMINATION LEVELS

01. New development subject to these standards shall be configured so that the maximum illumination level at the lot lines of the new development complies with the limitations as specified in Table <>, Maximum Illumination Levels.

TABLE <>: MAXIMUM ILLUMINATION LEVELS

LOCATION OF NEW DEVELOPMENT [1]	MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (FOOTCANDLES) [2] [3] [4]
Lot abuts land in a CON, RPV, RUR, or LDR zoning district	1.0
Lot abuts land in a MXR, RUM, or RCZ zoning district	1.5
Lot abuts land in a GLC, TNC, or MZC zoning district	2.0
Lot abuts land in an IND, CZC, or CZI zoning district	2.5

TABLE <>: MAXIMUM ILLUMINATION LEVELS	
LOCATION OF NEW DEVELOPMENT [1]	MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (FOOTCANDLES) [2] [3] [4]
NOTES:	[1] Standards are applied based on the zoning district designation of abutting land, not the zoning district designation where the new development is located. [2] Maximum illumination level measured at a lot line shared with the zoning district identified in the corresponding Location column. [3] Illumination level as determined in accordance with Section <>, Exterior Lighting Measurement. [4] In cases where a single development occupies multiple lots, the standard shall apply to the lot line(s) around the perimeter of the project.

02. The maximum light level using maintained lumens shall be no more than 0.25 foot candles for any land use at ground level adjacent to or within a stream buffer or surface water buffer. Stream and surface water buffers are defined as extending 30 feet from each bank of the stream or water body.

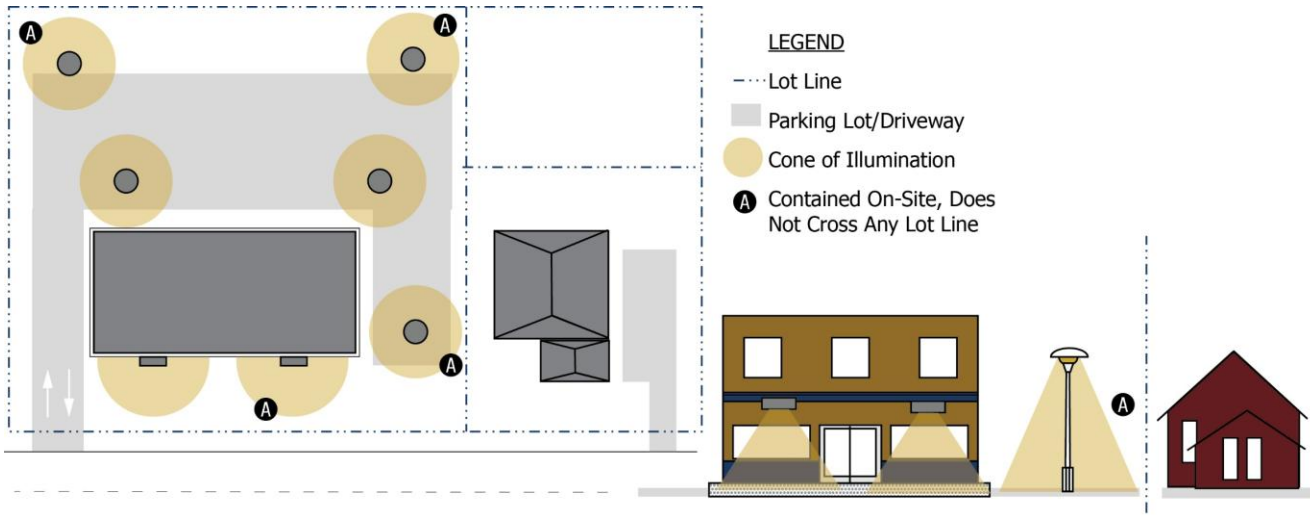
03. No light fixtures may be installed within a stream buffer, except for safety lighting used to illuminate pedestrian and recreational areas within a stream buffer.

F. MOUNTING LOCATION

01. Exterior lighting shall be mounted and configured in such a manner so that the cone of illumination is contained on-site and does not cross any lot line around the perimeter of the site (see Figure <>: Mounting Location).

02. Wall pack and wall-mounted lighting fixtures shall not project above the fascia or roof line of the building.

FIGURE <>: MOUNTING LOCATION



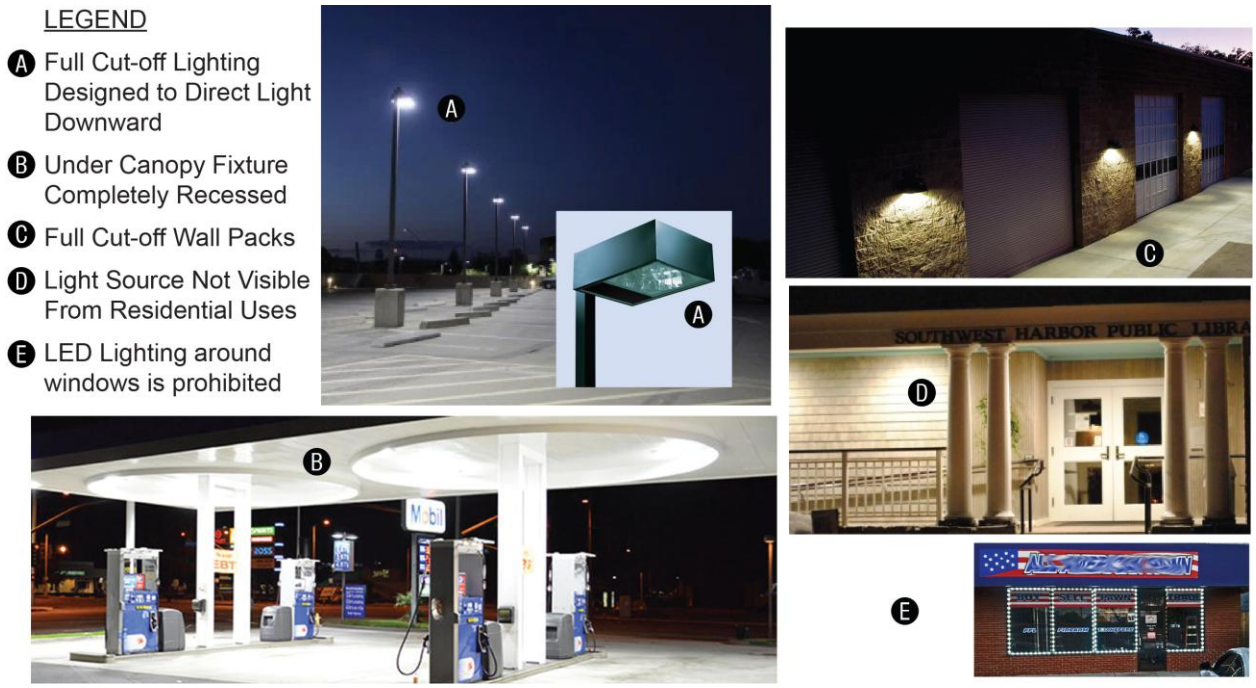
G. SHIELDING

01. All overhead lighting fixtures, whether pole-mounted or wall-mounted, shall be full cut off, fully shielded, and designed to prevent light from emitting upwards towards the sky (see Figure <>: Light Shielding).

02. Under canopy lighting fixtures shall be recessed within the canopy so that no source of illumination is visible except from directly underneath the light fixture.

03. Wall packs and floodlights and shall be full cut-off and shielded (e.g., light source not visible from off-site) and configured to direct light downwards rather than outwards.

FIGURE <>: LIGHT SHIELDING



6.4.7. STANDARDS FOR SPECIFIC SITE FEATURES AND USES

A. BUILDING ENTRANCE AND GATHERING AREA LIGHTING

Entrances to buildings and outdoor gathering spaces available for use by the general public after dusk shall be illuminated to provide safety and security, subject to Section <>, StandardsError! Reference source not found..

B. PARKING LOT LIGHTING

01. LIGHTING REQUIRED

Off-street parking lots of ten or more spaces shall include exterior lighting configured in accordance with Section <>, StandardsError! Reference source not found..

02. AMBIENT LIGHTING REQUIRED

Exterior lighting within parking lots, including driveways and drive aisles, shall be configured and operated in order to maintain a minimum threshold of ambient lighting of at least 0.5 footcandles after dusk throughout the parking lot and vehicular use areas during hours of operation.

03. PLACEMENT CONSISTENT WITH REQUIRED LANDSCAPING

Exterior lighting located within a parking lot shall comply with the standards in Section <>, Off-Street Parking Lot Landscaping.

C. OUTDOOR DISPLAY AREA LIGHTING

Exterior illumination of outdoor display areas after hours of operation shall be prohibited, however, such areas may be illuminated by motion-activated lighting to preserve security.

D. SIGN LIGHTING

Sign lighting shall be shielded so that light is not unnecessarily directed towards motorists and pedestrians.

6.4.8. STREET LIGHTS

Street lighting associated with a public or private street right-of-way shall comply with the following standards.

A. Public and private streets shall be illuminated in accordance with NCDOT's Roadway Lighting Policy, 2020, as amended.

B. In cases where a subdivision includes streets and intersections subject to these standards, the subdivider shall coordinate with the designated electrical service provider to prepare a street lighting plan that identifies the location and configuration of required street lights.

C. The infrastructure plan associated with the subdivision shall include the street light plan.

D. Street lights, where provided along a public street right-of-way, shall be located within the street right-of-way.

E. Street lights shall maintain a maximum on-center spacing of 150 linear feet unless topographic or safety concerns mandate a different configuration.

F. Street lights shall generally be located on the opposite side of the street from the closest adjacent street light.

G. All street lights shall be located inside full cut-off fully shielded fixtures mounted on non-corrosive poles served by underground wiring.

H. The light structure and light color of street lights shall be consistent throughout the subdivision.

I. Nothing shall limit a subdivider from providing street lights in areas beyond street intersections provided the street lighting is configured in accordance with NCDOT or Town policy guidance and provided the owners' association is responsible for street light maintenance.

6.4.9. EXTERIOR LIGHTING MEASUREMENT

A. MEASURED AT THE LOT LINE

Light level measurements shall be made at the lot line of the land upon which light to be measured is being generated (see Figure <>: Light Measurement). If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the land.

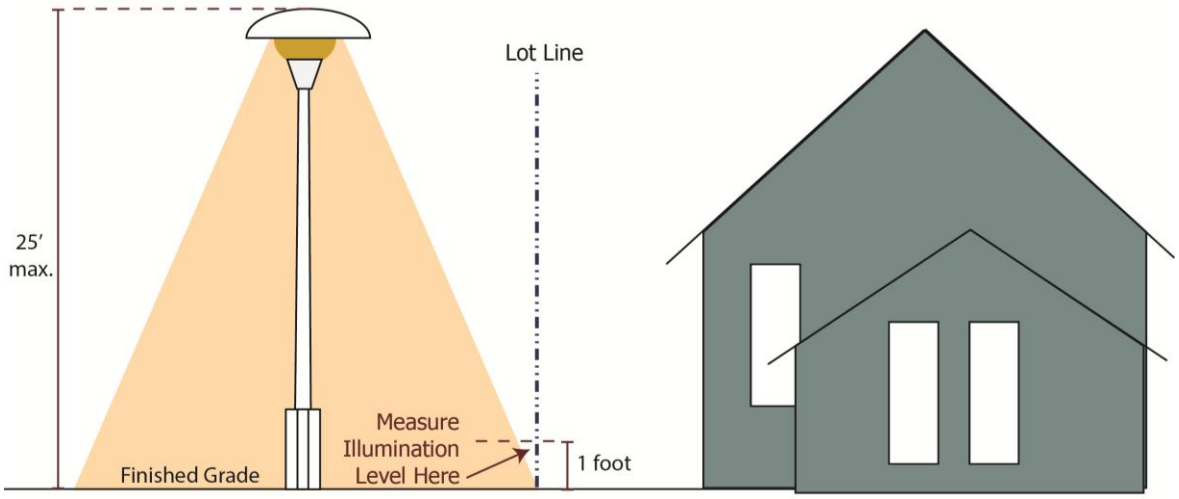
B. MEASURED AT FINISHED GRADE

Measurements shall be made within one foot of the finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent.

C. MEASUREMENT DEVICE

Measurements shall be taken with a light meter that has been calibrated within two years and by a person certified to operate the device.

FIGURE <>: LIGHT MEASUREMENT



§ 6.5 INFRASTRUCTURE[14]

This section establishes standards for the planning and installation of public infrastructure, including public and private streets, as part of new development or alteration or redevelopment of existing development.

6.5.1. INTENT

The purpose of this section is to establish standards for the planning and installation of public infrastructure as part of development, whether as part of a subdivision, site plan, or expansion or addition of an existing site. More specifically, this section is intended to:

A. Provide for the orderly growth and development of the Town, and its planning jurisdiction;

B. Coordinate the logical extension of streets and other public utilities as a part of new development and redevelopment;

C. Provide for the adequate provision of services and infrastructure for features such as potable water, wastewater, and fire protection;

D. Maintain conditions essential to the public's health, safety, and general welfare;

E. Protect environmentally sensitive lands and resources; and

F. Facilitate the safe and efficient re-subdivision of larger tracts into smaller parcels of land, where appropriate.

6.5.2. APPLICABILITY

A. The standards in this section are applied to all forms of development that include or are served by the following forms of infrastructure:

01. Fire protection features, such as fire hydrants;

02. Streets, including private streets;

03. Street curbing, drainage, lighting, and traffic control devices;

04. Potable water; and

05. Wastewater treatment.

B. The timing of review for compliance with these standards shall take place as part of review for a Site Plan, Subdivision Plat, Construction Drawings, Zoning Compliance Permit, Building Permit, or Certificate of Occupancy, as appropriate.

C. Development subject to these standards shall have installed all required infrastructure in accordance with this section or shall have secured its completion in accordance with Section <>, Performance Guarantee, prior to final approval of a Final Plat (see Section <>, Final Plat) or issuance of a Certificate of Occupancy (see Section <>, Certificate of Occupancy).

6.5.3. GENERALLY

The following standards are applied to all forms of infrastructure regulated under this Ordinance.

A. REASONABLE RELATIONSHIP

All required improvements and rights-of-way (other than required reservations) in this section shall substantially benefit the development or bear a reasonable relationship to the need for infrastructure attributable to the new development.

B. CONSISTENCY WITH ADJACENT DEVELOPMENT

Whenever it can reasonably be anticipated that infrastructure constructed in one development will be extended to serve other adjacent or nearby developments, the infrastructure (such as streets, water, or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

C. INSTALLATION SEQUENCE

Infrastructure shall be installed in the following sequence:

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[14] This section is a blend of current and new standards intended to promote sound infrastructure planning practices. There are new general standards, provisions for easements, and several new sections. The streets portion of this section is expanded to address street continuation and connectivity.

01. Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement;

02. Street base material;

03. Curb and gutter and sidewalks; and

04. Street paving. Installation of the final lift of asphalt on roadway surfaces shall be delayed until at least 80 percent of the development (or 80 percent of the development within a particular phase) is completed.

D. LOCATION

Placement of required infrastructure within a Special Flood Hazard Area (SFHA) shall only be in accordance with the applicable standards in this Ordinance and applicable State law.

E. MAINTENANCE REQUIRED

01. Required infrastructure installed or caused to be installed by a subdivider and intended for ownership or operation by another entity (like the Town, NCDOT, or an owners' association) shall be maintained by the subdivider until such time as the infrastructure is accepted by the entity who will own or operate it.

02. All infrastructure shall be constructed in a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

F. UNDERGROUND UTILITIES

01. Except for high voltage electrical transmission lines, all new electric power lines, excluding transformers or enclosures containing electrical equipment which may be pad mounted, as well as telephone, gas distribution, and cable television lines in development constructed after (*insert the effective date of this Ordinance*) shall be placed underground in accordance with the specifications and policies of the respective utility service providers.

02. Except for existing high voltage electrical transmission lines, burying of existing overhead utilities located on land adjacent to new development, or alteration or redevelopment after the effective date of this Ordinance is strongly encouraged.

03. No electric power, telephone, cable television or other utility lines may be installed over ponds, lakes, rivers, or other bodies of water.

6.5.4. BRIDGES AND DAMS[15]

A. BRIDGES

01. BRIDGES ON PUBLIC STREETS

a. Bridges located on proposed public streets shall be designed according to State road standards for public street bridges. The applicant shall submit a copy of the bridge design plans as part of the application. The plans shall include certification from a professional engineer indicating that the plans meet State standards for public street bridges

b. Prior to Final Plat approval or release of any Performance Guarantee, the applicant shall submit a copy of documentation indicating plan approval by NCDOT and a copy of an as-built drawing of the bridge with certification from a professional engineer that the bridge meets State standards for public street bridges.

02. BRIDGES ON PRIVATE STREETS IN RESIDENTIAL SUBDIVISIONS

a. If bridges on private streets in a residential subdivision is proposed, the applicant shall submit a copy of bridge plans showing certification from a professional engineer indicating that the bridge plans meet State standards for public street bridges for drainage, hydraulics and minimum live load.

b. Bridges shall maintain a minimum vertical clearance of at least 13 feet, six inches (13' 6") above the paving surface.

c. The travelway width across the proposed bridge must not be less than the travelway width of the street on either side of the proposed bridge, and in no event shall the bridge travelway be less than 12 feet.

[15] These are new standards.

d. If the travelway of a private bridge is less than 18 feet wide and the bridge is proposed to accommodate two-way traffic, a paved or gravel turnout shall be provided on each end of the proposed bridge to provide space for at least one vehicle to safely pull over and allow an oncoming vehicle to traverse the bridge.

e. Prior to Final Plat approval or release of any Performance Guarantee, the applicant shall submit a copy of an as-built drawing of the bridge with certification from a professional engineer that the bridge meets the standards required in this subsection.

03. BRIDGES ON PRIVATE STREETS IN COMMERCIAL OR INDUSTRIAL SUBDIVISIONS

a. Bridges located on proposed private streets in commercial or industrial subdivisions shall be designed according to State standards for public street bridges.

b. The applicant shall submit a copy of the bridge design plans as part of the development plan application. The plans shall include certification from a professional engineer indicating that the plans meet State standards for public street bridges. Prior to Final Plat approval or release of any Performance Guarantee , the applicant shall submit a copy of an as-built drawing of the bridge with certification from a professional engineer that the bridge meets State standards for public street bridges.

B. DAMS

All dams shall be designed, constructed, and operated in accordance with NCGS§143-215.23, the Dam Safety provisions of the North Carolina Administrative Code, all applicable Engineering Specifications and Design Manuals, and the following:

01. If located within a Special Flood Hazard Area, the structure shall be designed to meet or exceed all FEMA standards for such structures;

02. Dams shall not incorporate landscaping material and shall not be credited towards open space set-aside standards;

03. Maintenance of a dam structure shall be the responsibility of the developer or an owners' association, who shall be responsible for conducting all scheduled inspections and furnishing results of inspections to the Town, upon request; and

04. The party responsible for dam maintenance shall provide a performance guarantee for the dam's maintenance in perpetuity in accordance with the standards in Section <>, Performance Guarantee.

6.5.5. CLUSTER MAILBOXES[16]

New subdivisions and new phases to existing subdivisions shall incorporate cluster mailbox units configured in accordance with all applicable US Postal Service requirements and the following:

A. ACCESS

01. All cluster mailbox units in a development shall be directly served by a sidewalk, sidepath, greenway, or include facilities for vehicular access.

02. At least five percent of the provided mailboxes shall be configured to permit access in accordance with the American with Disabilities Act.

B. CONSTRUCTION

Cluster mailbox units shall be constructed in accordance with the following requirements:

01. Except in cases where cluster mailbox units are located within a building, such facilities shall be located on paved concrete pads and anchored in accordance with the NC State Building Code and US Postal Service requirements.

02. Cluster mailbox facilities with 100 or more mailboxes in one location shall be located within a roofed structure that provides shelter from sun or rain.

C. LOCATION

01. Cluster mailbox units shall be located within one or more of the following locations:

a. On land owned or maintained by an owners' association; or

b. Within a private access easement.

02. Where possible, cluster mailbox units shall be located central to the development they serve or proximate to a primary vehicular entrance to the development.

[16] These are new standards.

03. In no instance shall a cluster mailbox unit be located within a required sight distance triangle, a public utility easement, within the vehicular travelway portion of a street or alley, or in a manner that obstructs the movement of pedestrians along a sidewalk, sidepath, or greenway.

04. A cluster mailbox unit shall be positioned so that the individual mailbox units may be accessed without the need to stand within a street travelway.

05. In cases where a subdivision includes a recreational amenity building, cluster mailbox units are encouraged to be located within or adjacent to the building.

D. LIGHTING

Cluster mailbox units shall be served by a street light configured in accordance with Section <>, Street Lights, or other exterior lighting designed to maintain at least .05 footcandles of illumination in the vicinity of the cluster mailbox.

E. PARKING

01. A cluster mailbox unit with 20 or more mailboxes shall be served by one on-street or off-street parking space.

02. Cluster mailbox units with 40 mailboxes or more shall be served by two on-street or off-street parking spaces plus one additional on-street or off-street parking space for every additional 20 mailboxes beyond 40 to a maximum of four parking spaces.

03. On-street parking spaces shall be parallel to the vehicle travelway. On-street parking spaces that are perpendicular to the travelway are prohibited.

04. At least one of the parking spaces provided shall meet the requirements for an accessible parking space in accordance with the State Building Code.

05. As an alternative to providing parking spaces, a cluster mailbox unit may incorporate a separate vehicular pull-off area with sufficient width to accommodate a standard passenger vehicle and a sufficient length to accommodate the same number of stacked vehicles as could be accommodated by the required on-street or off-street parking.

06. In cases where a cluster mailbox unit is located within a neighborhood amenity use (like a clubhouse) or is located within an off-street parking lot serving such a use, the off-street parking provided for the cluster mailbox unit shall be marked and reserved. In no instance shall the off-street parking serving a cluster mailbox unit be shared or off-site parking.

6.5.6. DRAINAGE FACILITIES[17]

New development shall provide for the proper drainage of all stormwater runoff in order to protect the proposed development and neighboring developments from water damage in accordance with State law, this Ordinance, and the following standards.

A. APPLICABILITY

New non-residential, mixed-use, multi-family, and major single-family detached residential subdivisions shall provide drainage facilities in accordance with the standards in this section.

B. APPROVAL REQUIRED

The design of a drainage facility system, whether on public or private land, shall be subject to the approval of the Planning Director in accordance with all applicable State law and standards in this Ordinance

C. CONFIGURATION – PRIVATE DRAINAGE SYSTEM

01. COMPLIANCE WITH STORMWATER SECTION

Drainage facilities subject to these standards shall also comply with the standards in Section <>, Stormwater.

02. PRIVATE DRAINAGE SYSTEM

a. A surface or sub-surface private drainage system shall be designed to complement surface drainage systems serving surrounding properties.

b. All aspects of a private drainage system shall be located within a designated private drainage easement configured in accordance with Section <>, Drainage Easements.

[17] These are new standards.

c. Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.

d. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

e. In no instance shall surface stormwater be channeled into a public, or community sanitary sewer system or private on-site wastewater treatment system.

D. INSTALLATION TIMING

01. All required drainage facilities shall be constructed prior to approval of a Final Plat (see Section <>, Final Plat), or a Certificate of Occupancy (see Section <>, Certificate of Occupancy**Error! Reference source not found.**).

02. In the case of phased development, drainage facilities shall be completed for the active phase of development unless an alternative configuration is warranted in accordance with Section <>, Phased Development.

E. MAINTENANCE RESPONSIBILITIES

01. Street drainage facilities located outside the street right-of-way shall be maintained by the developer, the landowner, or an owners' association, and maintenance responsibility shall be noted on the Final Plat.

02. The Town shall not be responsible for any private or commonly-held subdivision drainage infrastructure connected to publicly-maintained drainage facilities, streams, or other outlets having constant flow.

6.5.7. EASEMENTS[18]

Easements for infrastructure shall be required when infrastructure is located outside a public street right-of-way or land owned by the Town. Easements, where required, shall be configured in accordance with the following standards:

A. GENERALLY

01. EASEMENTS DISTINGUISHED

a. Easements shall take one of the following forms:

i. An access easement;

ii. A drainage easement;

iii. A maintenance easement;

iv. A public utility easement; or

v. A roadway slope easement.

b. All easements shall be either public easements or private easements. Public easements are granted in favor of the Town, the NCDOT, or some other governmental entity. Private easements are granted in favor of an owners' association or to one or more individual landowners.

02. ALLOWABLE FEATURES

a. No landscaping, signage, fences, walls, patios, decks, or secondary structures shall be located within a public utility easement or a drainage easement.

b. Greenways, configured in accordance with Section <>, Greenways, may be located within a public utility easement.

c. Parking lots, driveways, and vehicular accessways may be located within any type of easement provided the purpose and function of the easement are not interrupted and provided the Town may access utility features, such as valves or manholes, at all times.

03. AUTHORIZATION FOR ENCROACHMENT INTO EASEMENT

Placement of a building, structure, use, or activity within an easement by a party other than an easement holder shall require the prior permission of the easement holder.**AUTHORIZATION FOR REMOVAL OF FEATURES IN EASEMENT**

a. In the event landscaping or other structure located within a public easement must be removed in order to gain access or conduct maintenance, the Town may remove such features at the owner's expense and shall not be required to replace any removed landscaping or other structures located within a designated public easement.

b. In the event the removed landscaping or other required feature is required by this Ordinance, then it shall be re-established by the landowner promptly after removal by the Town.

[18] These are new standards.

05. IDENTIFICATION

All easements whether public or private, shall be granted in favor of the Town of Mills River, the State of North Carolina, the appropriate utility provider, an owners' association, or to the benefit of specific lots, as appropriate, and shall be shown and clearly labeled on a Site Plan or Final Plat.

B. ACCESS EASEMENTS

Access easements shall take one of the following forms:

01. An access easement for the purposes of accommodating a shared driveway, configured in accordance with Section <>, Shared Driveways;

02. An access easement for the purposes of an existing or future parking lot cross accessway configured in accordance with Section <>, Parking Lot Connections; and

03. An access easement associated with a private street, configured in accordance with Section <>, Private Streets.

C. DRAINAGE EASEMENTS

Drainage infrastructure that crosses a lot line and that is not located within a public street right-of-way shall be located within a drainage easement configured in accordance with the following standards:

01. Drainage easements shall either be public, with the infrastructure owned and operated by the Town or other governmental entity, or private, with the infrastructure owned and operated by a landowner or private entity.

02. No development or land disturbance shall block or obstruct a drainage easement. Nothing shall limit vegetation within a drainage easement provided the vegetations does not interrupt the flow of water.

03. Open channel drainage easements shall have a minimum width of at least 10 feet.

04. Drainage easements containing sub-surface piped stormwater facilities shall have a minimum width of at least 20 feet.

05. Drainage easements of greater width may be required along the lines of or across lots where necessary for storm drainage, channels, surface overflow or for the extension of main sewers or similar utilities and when necessary for adequate separation of specific utilities.

06. Where development abuts or is traversed by a watercourse, drainage way, canal or stream, the developer shall provide a drainage easement with a minimum width of at least 20 feet for channel improvement, but may be wider if necessary to accommodate deep channels. The drainage easement shall be the minimum width necessary to include both banks and follow the center line of the watercourse, drainage way, canal, or stream.

D. MAINTENANCE EASEMENTS

Maintenance easements shall be required as a part of stormwater control measures in accordance with the standards in Section <>, Stormwater, as well as along retaining walls.

E. PUBLIC UTILITY EASEMENT

Public utility easements shall be configured to the following standards:

01. CONFIGURATION

a. POWER OR COMMUNICATIONS

Where alleys are not provided, public utility easements of not less than ten feet in width shall be provided adjacent to public rights-of-way or in such other locations as may be directed by the Planning Director for poles, wires, or conduits for electrical utilities, natural gas service, or telephone services.

b. POTABLE WATER

i. Public utility easements of at least 20 feet in width, centered on the pipe, or as otherwise required by the utility service provider, shall be provided for public potable water supply distribution systems in locations as may be directed by the Planning Director or utility service provider for water distribution lines, water meters, and access points.

ii. Wider easements may be required if there are multiple utilities, or if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement's width or depth.

c. SANITARY SEWER

i. Public utility easements of at least 20 feet in width, as centered on the pipe, or as otherwise required by the utility service provider, shall be provided for public sanitary sewer collection systems in locations as may be directed by the Planning Director or utility service provider for sewer collection lines and access points.

ii. Easements for lift stations and other facilities shall be sized and located as may be directed by the Planning Director or the appropriate utility service provider.

iii. Wider easements may be required if there are multiple utilities, or if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement's width or depth.

d. SHARED EASEMENTS

Potable water and sanitary sewer may also be located within a 40-foot-wide shared easement.

02. GRADE

Public utility easements shall be configured with a cross-slope of 6:1 and a maximum grade of four percent or less.

03. LOCATION

a. Public utility easements shall:

i. Be located in commonly-held lands, where practicable;

ii. Be placed along and centered on property lines, where practicable; and

iii. Be located proximate to side or rear lot lines, wherever possible.

b. Public utility easements may be located within off-street parking lots, driveways, and vehicular use areas provided access to valves is maintained at all times.

c. In cases where public utilities are located within a development required to provide open space set-aside, public utility easements may be located within open space-set areas.

d. Redesign of the lot arrangements may be required to accommodate easements in extreme conditions.

04. MAINTENANCE

a. Following acceptance, public utility easements shall be maintained by the appropriate public entity or the Town.

b. Easements for public utilities shall be cleared of undergrowth, trees, and other obstructions prior to approval of the Final Plat or Certificate of Occupancy unless the Planning Director certifies in writing that such clearance is unnecessary.

c. Clearance is not required for easements that are provided for possible future use.

d. Public utility easements shall be fully accessible from a rubber-tired vehicle.

6.5.8. FIRE PROTECTION

A. FIRE CODE

All new development subject to these standards shall comply with the most recent version of the Fire Code utilized by the Henderson County Fire Marshal.

B. FIRE HYDRANTS

01. Fire hydrants shall be required when indicated by the applicable Fire Code or when a development includes four or more proposed lots, four or more dwelling units, or non-residential uses to be served by extension of a public water supply system. Fire hydrants shall comply with the following requirements:

a. Fire hydrants shall be located within street rights-of-way, no more than 1,000 feet apart, and no more than 500 feet from any lot or unit to be served;

b. Fire hydrants shall be located at street intersections where practical, near the turnaround of a dead-end street, and at property line intersections;

c. Water lines serving fire hydrants shall be at least six inches in diameter, or larger size, as required by the water service provider, and shall not be dead-end lines, unless no other practicable alternative exists;

d. Fire hydrants shall comply with standard hydrant design (National Standard Thread, 4½-inch steamer, two 2½- inch discharge connections, etc.);

e. Fire hydrants shall be maintained by the provider providing water to the development; and

f. Fire hydrants shall only be required in cases where the system operator is capable of supplying sufficient water pressure to operate the hydrants.

02. All fire hydrants installed under the requirements of this section shall become the sole property of the appropriate utility service provider or the owners' association, upon acceptance.

03. In cases where a building includes sprinklers or similar fire suppression devices, fire hydrants shall be required in accordance with the most recently adopted North Carolina Fire Code.

6.5.9. POTABLE WATER[19]

All development utilizing potable water shall comply with the following standards:

A. POTABLE WATER SUPPLY SYSTEM REQUIRED

01. Every development, building lot, and manufactured home space shall be served by a means of a water supply that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable public health regulations.

02. All materials and pipes shall be provided by the developer and shall meet or exceed the requirements established by State or the utility service provider responsible for the potable water system.

03. The Town may, before issuing any approval under this Ordinance, make an investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the water supply system requirements of this Ordinance.

B. CONFIGURATION

A public water supply system shall comply with the following requirements:

01. When a public water supply is provided, water service shall be required along all lot frontages and along all proposed street extensions, including street stubs.

02. The developer shall install potable water mains in a development so that all lots to be developed will be able to connect to the centralized water system.

03. All new potable water mains shall be installed solely within street rights-of-way, unless no feasible alternative exists, in the sole opinion of the Planning Director .

04. The minimum diameter of a water main shall be six inches, or as required by the water service provider.

05. Water service shall be provided by service lines with a minimum six-inch nominal diameter on streets which are "stubbed out" at property lines to permit future development, or as otherwise required by the utility service provider.

06. In cases where development is proposed in phases, water line valves shall be installed at all phase boundaries.

07. The developer shall submit detailed drawings with the Construction Drawings associated with a development, prepared, and sealed by a professional engineer, showing the installation of the required public water supply system infrastructure.

08. All materials and pipes shall meet or exceed the requirements of the public water supply system provider.

C. ON-SITE WATER SUPPLY SERVICE

01. All on-site potable water supply systems shall be designed and installed in accordance with Henderson County Health Department requirements.

02. On-site potable water supply systems shall be located upon the same lot as the use they serve.

03. When proposing lots or units to be served by on-site potable water service, the lot shall be of sufficient size to accommodate all the proposed on-site utilities as well as to provide for adequate building area.

04. Every plat with lots served by on-site potable water service shall include the following disclosure statement:

> "Public potable water services are not available, as of the date of the recording of this deed. On-site potable water systems must be approved by the Henderson County Health Department."

6.5.10. STREETS[20]

A. COMPLIANCE WITH STANDARDS

All public and private streets and rights-of-way shall be constructed in accordance with the standards established for the particular type of street in question by NCDOT and this Ordinance.

B. STREET TYPES DISTINGUISHED

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[19] This section carries forward and builds on the standards in Section 153.068 of the current Subdivision Ordinance.

[20] This section carries forward and enhances many of the standards in Section 153.069 through 153.076 of the current Subdivision Ordinance (sidewalk provisions are relocated to the Sidewalks and Greenways section).

All streets within the Town shall take one of the following three forms:

01. Public streets, owned and operated by the NCDOT;

02. Public streets, owned and operated by the Town; or

03. Private streets, owned and operated by landowners or owners' association.

C. DEDICATION REQUIRED

01. In cases where a developer intends to provide new or extend existing public streets and the NCDOT has indicated a willingness to accept a proposed street or street segment as a public street, the developer shall dedicate all land necessary for the street right(s)-of-way in accordance with NCGS§§ 136-66.10 and 160D-804. In cases where the land to be developed abuts one side of a proposed street alignment, one-half of the total right-of-way, as measured from the street centerline, shall be dedicated along the development's frontage.

02. Subdivisions located adjacent to and anticipated to be served by existing public or private streets with inadequate right-of-way width shall dedicate or secure the additional right-of-way necessary to meet the minimum widths specified in the applicable NCDOT standards or this Ordinance, as appropriate.

03. Reservation of designated right(s)-of-way shall be required in lieu of dedication of land for public streets in cases where a right of direct access from abutting property in the proposed development is denied.

04. Right-of-way area to be dedicated or reserved shall be depicted on a Site Plan, Preliminary Plat, Construction Drawings, and a Final Plat, as appropriate, and shall include bearings and distances of the required dedication or reservation lines shown.

05. Any right-of-way required to be dedicated or reserved shall not be included in the calculation of land area for district dimensional requirements for the zoning district where located.

D. CONSTRUCTION AND IMPROVEMENT REQUIRED

01. In cases where a public street is to be owned and operated by the NCDOT, the street shall be constructed to the NCDOT's standards.

02. Private streets shall be constructed to the standards in Section <>, General Requirements for Private Streets.

03. Major subdivisions of eight or more lots anticipated to be served by existing public or private streets with inadequate surfacing or construction standards shall improve the street as necessary to meet all the minimum requirements (e.g., widths and surfacing) specified in the applicable NCDOT standards or this Ordinance, as appropriate. The requirements for construction and improvement of private streets shall apply to the entire street segment(s) joining the proposed subdivision entry(ies) to the larger street network, regardless of private street ownership, location, or distance between the subdivision entry(ies) and the larger street network.

E. MAINTENANCE REQUIRED

In cases where new development includes public streets the applicant shall provide the Town and all purchasers of land within the development an agreement configured in accordance with NCGS§136-102.6 specifying that the developer is responsible for adequate maintenance of all new streets until the streets are accepted for maintenance by the NCDOT.

F. GENERAL REQUIREMENTS FOR PUBLIC STREETS

Public streets shall be configured in accordance with the standards in this section and the standards in Section <>, Street Standards Applied to Public and Private Streets.

01. DESIGNATION

a. All streets proposed for public use shall be annotated "public" on Site Plans and Preliminary and Final Plats and shall include information regarding the applicable street classification(s).

b. A single development may be served by both public and private streets.

c. In cases where a single development includes both public and private streets, Site Plans and Preliminary and Final Plats shall clearly distinguish between these street types using line weight, color, hatching, or other approved method.

02. STREET CLASSIFICATION

a. All streets dedicated to public use shall be configured in accordance with the applicable NCDOT standards.

b. Whenever a street within a new development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the development at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

03. STREET CROSS SECTIONS

a. All public streets established in the Town shall include a minimum street right-of-way and cross section configured in accordance with the applicable NCDOT standards.

b. Street cross-section requirements can be located in the NCDOT Roadway Design Manual, Highway Typical Sections for Use in SPOT Online, and the NCDOT Subdivision Roads Minimum Construction Standards Manual.

c. In cases where the alternative cross section is proposed for a street owned and operated by NCDOT, the NCDOT shall also approve the proposed alternative street cross section.

d. Alternative street cross sections shall be configured to readily accommodate emergency vehicles and sanitation trucks.

G. GENERAL REQUIREMENTS FOR PRIVATE STREETS[21]

Private streets shall be configured in accordance with the standards in this section and the standards in Section <>, Street Standards Applied to Public and Private Streets.

01. DESIGNATION

a. All streets proposed for private use shall be annotated "private" on Site Plans and Preliminary and Final Plats and shall include information regarding the applicable street classification(s).

b. A single development may be served by both private and public streets.

c. In cases where a single development includes both public and private streets, Site Plans and Preliminary and Final Plats shall clearly distinguish between these street types using line weight, color, hatching, or other approved method.

02. EXISTING ON-SITE PRIVATE STREET

In cases where a development is proposed on a lot that includes an existing private street that does not meet the applicable standards in this Ordinance, the applicant shall be responsible for upgrading the private street to meet the applicable standards in this section.

03. ACCESS VIA AN EXISTING OFF-SITE PRIVATE STREET

a. In cases where a Major Subdivision is proposed to gain access via a private street and the private street does not meet the standards of this Ordinance, the applicant shall be responsible for upgrading the private street to meet the applicable standards of this section.

b. The required upgrade shall be limited to the portion of the existing private street located between the accessway(s) of the subdivision and the location where the private street connects with the larger street network.

c. In no instance shall a Certificate of Occupancy for any development subject to these requirements be issued unless and until all applicable private streets comply with the standards in this section.

04. CONTINUATION OF AN EXISTING PUBLIC STREET AS A PRIVATE STREET

In cases where a private street is proposed as an extension of an existing public street, the developer shall clearly justify why the existing public street should not be extended for public use.

05. DECLARATION REQUIRED

a. In cases where a subdivision, other than a Family Subdivision, includes private streets, the Final Plat shall include the following notation:

"The private street(s) indicated on this Final Plat need not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system and may not be accepted for public maintenance."

b. Every deed created for a lot served by a private street subject to this Ordinance filed with the Henderson County Register of Deeds shall include the following disclosure:

"It is hereby acknowledged that a Subdivision Streets Disclosure Statement has been executed in accordance with Section 136-102.6 of the North Carolina General Statutes."

06. STANDARDS FOR PRIVATE STREETS SERVING NON-RESIDENTIAL AND MIXED-USES

a. Non-residential and mixed-use development that includes new or relies on the extension of an existing street shall, at a minimum, be required to design and construct the street to the NCDOT public street standards for a Residential Collector street classification, though the Town or an applicable Traffic Impact Analysis may require a construction of a street with a higher functional classification.

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[21] This section carries forward Section 153.069 in the current subdivision regulations.

b. In cases where a development subject to these standards gains access from an existing off-site private street not meeting the standards for a public Residential Collector street, the applicant shall be responsible for improving the existing private street to the required standard along all applicable street frontages that abut the street in question.

07. STANDARDS FOR PRIVATE STREETS SERVING RESIDENTIAL USES

All private streets serving residential uses shall be configured in accordance with Table <>, Private Street Standards.

TABLE <>: PRIVATE STREET STANDARDS

APPLICABLE STANDARD	TYPE OF PRIVATE STREET		
	COLLECTOR	LOCAL	LIMITED LOCAL
CLASSIFICATION			
Number of Residential Units Served (#)	25 or more	8 to 24	Up to 8
RIGHT OF WAY WIDTH			
Street (feet)	50	45	30
Cul-de-sac Radius (feet)	N/A	50	50
Sight Distance on Vertical Curves (feet)	150	110	110
Centerline Radius	110	90	90
MAXIMUM GRADE			
Gravel or Crushed Stone (%)	12	15	15
Paved Surface (%)	16	18	18
MINIMUM TRAVELWAY WIDTH			
Minimum Width - Two-Way Street (feet)	18	18	14
Minimum Width – One-way Street (feet)	12	12	12
Minimum Width – Cul-de-Sac (feet)	N/A	N/A	N/A
Shoulder Width (each side) – Two-Way Street (feet)	6 [1]	6 [2]	2
Shoulder Width (each side) – One-Way Street (feet)	2	2	2
Stone Base – Aggregate Base Course Compacted – (inches)	8	6	6
Asphalt	1½ inches of asphalt or BST [3]	1½ inches of asphalt or BST [3]	N/A
Cut and Fill Slope (ratio) [4]	2 to 1	1½ to 1	1½ to 1
Ditch Slope (ratio)	4 to 1	3 to 1	3 to 1
Vertical Clearance (feet)	13 + 6 inches		

NOTES:

[1] In cases where the existing cross slope is greater than 10% but less than 20%, a four-foot minimum shoulder width is permitted. In cases where the existing cross slope is 20% or greater, a two-foot minimum shoulder width is permitted.
[2] In cases where the existing cross slope is 20% or greater, a two-foot minimum shoulder width is permitted.
[3] BST = bituminous surface treatment (tar & gravel).
[4] In cases where the existing cross slope is 20% or greater, 1 to 1 cut-and-fill slopes are permitted.

08. MAINTENANCE

a. Neither the Town of Mills River nor NCDOT shall be responsible for maintenance of private streets.

b. Private streets may be marked with signage indicating where State maintenance responsibility stops.

09. COMPLIANCE WITH EASEMENTS

All private streets serving two or more lots shall be located within an access easement configured in accordance with the applicable requirements in Section <>, Easements.

10. SURFACING

In cases where private streets are required to be paved, street surfacing shall be in accordance with all applicable NCDOT paving standards for public streets.

H. STREET STANDARDS APPLIED TO PUBLIC AND PRIVATE STREETS

All streets, whether public or private, shall comply with the following standards. In cases of conflict between these standards and the standards in Section <>, General Requirements for Public Streets, or Section <>, General Requirements for Private Streets, as applicable, the standards in those sections shall prevail over these street standards.

01. GENERAL LAYOUT

a. The layout, arrangement, width, grade, character, and location of streets shall conform to topographic conditions, natural features, and drainage systems.

b. When a development abuts or contains an existing or proposed major street, the Town may require frontage streets, reverse frontage lots with landscape plantings, or other treatment as may be necessary for adequate protection of residential properties and to ensure separation of through and local traffic.

c. Reserve strips or parcels controlling access to streets shall be prohibited, except where required as part of development on a double-frontage lot.

d. Public streets shall not terminate into a driveway, parking lot, or alley.

02. COMPLIANCE WITH OTHER STANDARDS

New streets and changes to existing streets located within or adjacent to a lot or tract shall comply with the applicable standards in the following sections:

a. Section<>, Access and Driveways;

b. Section <>, Sight Distance Triangles;

c. Section <>, Drainage Facilities; and

d. Section <>, **Error! Reference source not found.**.

03. COMPLIANCE WITH TIA FINDINGS

In cases where new development is subject to Section <>, Traffic Impact Analysis, all streets and street-related infrastructure shall comply with the findings of the analysis.

04. DRAINAGE AND CULVERTS

a. All street drainage structures shall be constructed in accordance with State public street standards.

b. Street drainage side ditches shall be constructed with sufficient depth and width to carry the expected volume of stormwater runoff. Where a street crosses streams or minor watercourses, culverts shall be designed and installed in accordance with State public street standards.

c. Construction Drawings shall show all the drainage culvert locations, as well as the length, diameter, and type of culvert.

05. STREET CONSTRUCTION

a. All streets must be constructed with suitable stone and compacted properly.

b. All streets, including private streets, shall be surfaced in accordance with the applicable NCDOT paving standard.

c. Used asphalt is unacceptable as a base course.

d. The subbase must be of suitable soil capable of supporting the street above.

e. The street shall drain water from the road surface into side ditches.

f. Because of the difficulty of operating vehicles on steep grades and the high potential for erosion, where possible, streets should be constructed along the contour of the land.

g. No stone-based road may exceed a 15% grade for local residential street or a 12% grade for a collector street. No paved street may exceed 18% and 16% grades, respectively.

h. If combination paved and stone-based street sections are proposed, the paved sections must extend 50 feet from any point a street grade exceeds the minimum for a stone-based street.

i. The Planning Director may require that a professional engineer or professional land surveyor certify, on the Final Plat, that no portion of the street(s) have grades that exceed maximum allowable grade; or may require submittal of a final as-built graded center line profile showing grade and alignment for all streets.

06. MINIMUM CURVE RADIUS

a. Where practical, streets shall be centered in the right-of-way.

b. The right-of-way must include sufficient width for the travelway and the necessary shoulders, ditches and slopes.

c. The minimum curve radius (the distance measured from the centerline of the street to a fixed point inside the curve) shall be no less than 90 feet except as provided below:

i. Where the existing cross slope on private limited local residential subdivision streets or private local residential subdivision streets is 15% or greater, a minimum centerline radius of 60 feet shall be permitted.

ii. Where the existing cross slope on private residential collector streets is 15% or greater, a minimum centerline radius of 80 feet shall be permitted.

d. Curve radii must be noted on development plans.

07. SHOULDER STABILIZATION

a. All areas disturbed by the construction of a public or private street, including cut and fill slopes, shoulders, and ditch banks, shall be seeded in permanent vegetation to stabilize the soil and prevent erosion.

b. Seeding should be done as soon as feasible after road construction.

08. STREET INTERSECTIONS

Street intersections shall be configured in accordance with the following standards (see Figure <>: Street Intersections):

a. Not more than two streets shall intersect at any one point unless the NCDOT certifies that such an intersection can be constructed with no extraordinary danger to public safety;

b. In cases where two or more paved streets intersect, any required surfacing shall extend so that the entire intersection is paved;

c. Streets shall intersect at right angles to the maximum extent practicable, and no two streets shall intersect at less than 60 degrees;

d. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street;

e. Where a street center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet;

f. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 200 feet measured from centerline to centerline of the intersecting street. When the intersected street is a major thoroughfare, the distance between intersecting streets shall be at least 1,000 feet, unless no other alternative is practicable;

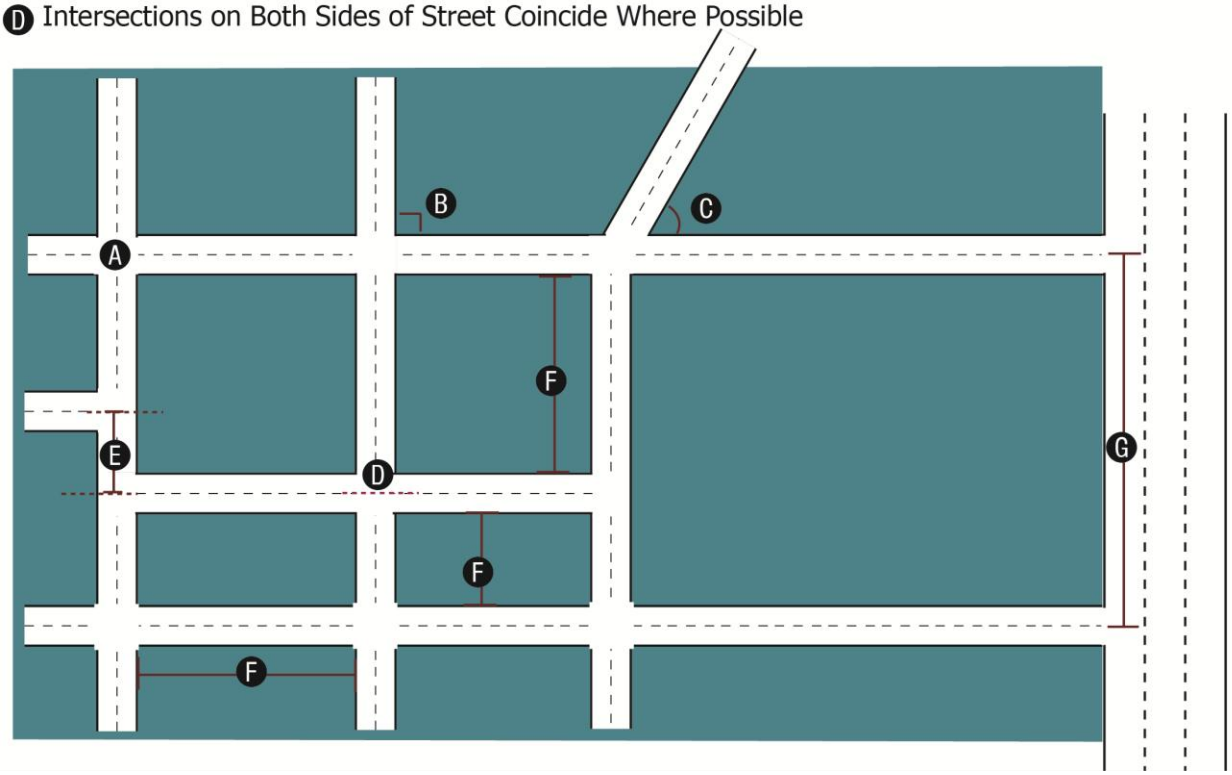
g. Property lines at street intersections shall be shown as a chord connecting points not less than 15 feet back from the street intersection along each street right-of-way line. Longer setbacks for chord connections for property lines may be required by the Town as needed for public safety; and

h. In commercial developments, the Town may assign traffic control to through traffic within 500 feet of the point of access to the public right-of-way.

FIGURE <>: STREET INTERSECTIONS

LEGEND

- A Two Streets Per Intersection
- B Right Angles Preferred
- C Minimum 60 Degree Angle
- D Intersections on Both Sides of Street Coincide Where Possible
- E Center Line Offset (Jog) Min. Distance 125'
- F Minimum Distance Between Intersections 200'
- G Minimum Distance Between Intersections With an Arterial 1,000'



09. CUL-DE-SAC AND DEAD END STREET DESIGN

a. No cul-de-sac or dead-end street serving residential lots of 20,000 square feet or less in area shall exceed 1,000 feet in length, and no cul-de-sac or dead end street serving any other kind of residential development shall exceed 2,500 feet in length.

b. No cul-de-sac or dead-end street serving commercial or mixed-use development shall exceed 500 feet in length.

c. In cases where one cul-de-sac is accessed from another cul-de-sac, the maximum length for all cul-de-sacs accessed from another cul-de-sac street shall be 500 linear feet (see Figure <>, Maximum Cul-de-Sac Length).

d. Cul-de-sac medians may be permitted where the cul-de-sac radius is increased, and emergency vehicles and sanitation trucks can be accommodated.

e. All permanent cul-de-sacs or other dead-end streets shall be provided with a turn-around at the closed end configured in accordance with the Fire Code and any other applicable standards.

f. Stub streets shall be provided in accordance with the standards in Section <>, Street Continuation.

g. Stub-streets shall not exceed 150 feet in length without inclusion of an approved turn-around for emergency vehicles.

h. In cases where adjacent development connects to an existing stub-street and provides another point of ingress/egress, the development with the stub street and turn around may be amended to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this Ordinance.

FIGURE <>: MAXIMUM CUL-DE-SAC LENGTH

10. TERMINATION

In no instance shall a public street terminate into a parking lot.

11. HALF STREETS

a. Whenever an existing half street is adjacent to a tract of land to be subdivided or otherwise developed, the other half of the street shall be dedicated and constructed unless no access to the street from the development is permitted.

b. In cases where access to an adjacent half street is not permitted, then the land corresponding to the other half of the street shall be reserved and included within an easement for conditional future dedication within the new subdivision or other development.

c. New half streets are prohibited except when essential to the reasonable progression of the subdivision or other development in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided or otherwise developed.

12. MARGINAL ACCESS STREETS

When a tract of land to be subdivided or developed adjoins a limited access highway, the developer may be required to provide a marginal access street parallel to the highway or reserve frontage on an interior street for the lots being proposed that are adjacent to the highway.

13. BLOCK LENGTH AND WIDTH

a. BLOCK LENGTH

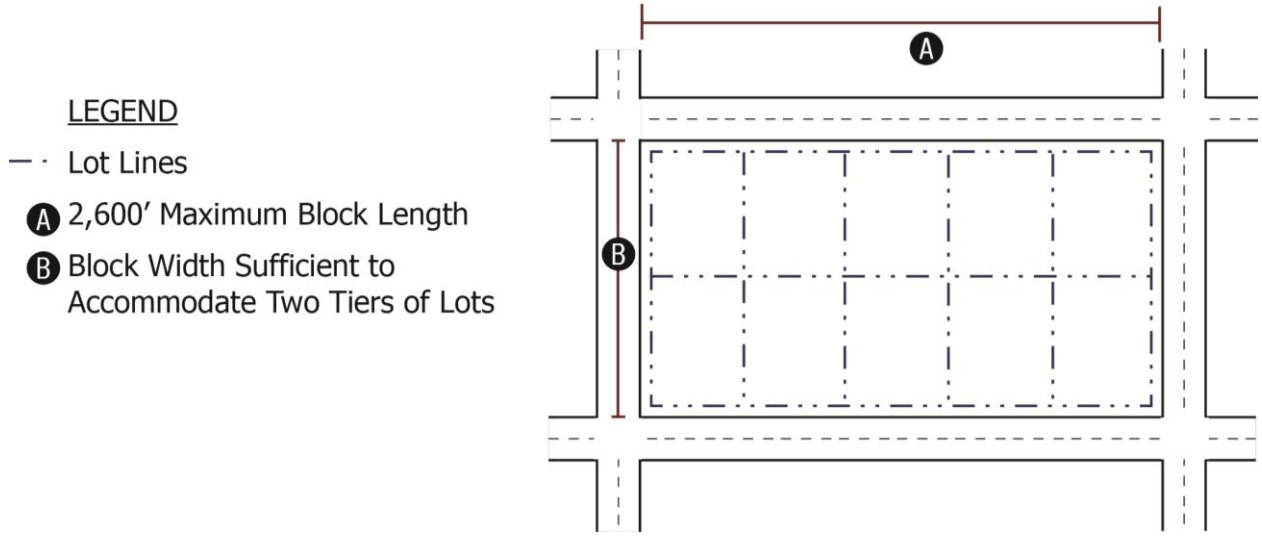
Except for major streets, streets surrounded by the CON, RPV, RUR, or LDR districts, or where otherwise required by the NCDOT, intersecting streets shall be laid out at such intervals that block lengths do not exceed 2,600 linear feet.

b. BLOCK WIDTH

i. Except where required to separate residential development from through traffic, the width of a block shall normally be sufficient to allow two tiers of lots of appropriate depth.

ii. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries (see Figure <>, Block Configuration).

FIGURE <>: BLOCK CONFIGURATION



14. STREET CONTINUATION

a. Whenever a street within a new subdivision or development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the subdivision or development boundaries at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

b. The arrangement of streets in a subdivision or development shall provide for the alignment and continuation of existing or proposed streets into adjoining undeveloped lands or in cases where adjoining lands are developed but include opportunities for such connections.

c. Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development where practicable and feasible in each direction (north, south, east, and west) for development which abuts vacant lands.

d. In cases where a street stub cannot be continued to the property boundary because an adjacent landowner will not permit access onto the adjacent property to establish the street stub, the entity responsible for providing the street stub shall:

i. Ensure the street stub extends as close as possible to the property line, but in no instance less than five feet from the property line; and

ii. Dedicate an access easement from the termination of the street stub to the property boundary for use as a street at such time as the abutting land is developed.

e. New development on a vacant lot shall provide street connections to street stubs or access easements on abutting developed properties.

f. Major thoroughfare streets shall intersect with surrounding thoroughfare streets at safe and convenient locations, as determined by the Town and the NCDOT, as appropriate.

g. At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" to inform property owners.

h. The Site Plan or Final Plat shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped or underdeveloped lands.

i. The use of residential strips of land in order to prevent the extension of proposed or existing streets or access thereto is prohibited.

15. ENTRY POINTS FOR DEVELOPMENTS

All new subdivisions and developments shall provide development entry points in accordance with this section. Development entry points are vehicular accessways that provide direct access to streets located outside the development. Development entry points shall be configured in accordance with the following table.

TABLE <>: MINIUM NUMBER OF DEVELOPMENT ENTRY POINTS [1]

TYPE OF PROPOSED DEVELOPMENT	DEVELOPMENT SIZE	MINIMUM NUMBER OF DEVELOPMENT ENTRY POINTS [2][3][4]
Single-Family Detached Residential, Duplex, Triplex, and Quadplex	30 or fewer lots or units	1
	31 to 100 lots or units	2
	101 or more lots or units	3+ as required by a Transportation Impact Analysis
Townhouse, Multi-Family, and Mixed-Use Development	30 or fewer units	1
	31 to 100 units	2
	101 to 500 units	3
	501 or more units	4
Non-Residential Development [5]	Less than 10 acres	1
	10 to 50 acres	2
	More than 50 acres	3

NOTES:
[1] Development entry points are vehicular accessways that provide direct access to streets, not driveways.
[2] When two or more development entry points are required, each access should be made to a separate street, to the maximum extent practicable.
[3] Additional development entry points may be required by the Town.
[4] Up to two street stubs may be counted as development entry points for a subdivision or development, but all subdivisions and developments must comply with all applicable Fire Code access provisions.
[5] Industrial development is exempted from these standards.

FIGURE <>: DEVELOPMENT ENTRY POINTS

16. Nothing in this section shall limit the total number of streets providing access to the street system outside a development.
17. In cases where a development is required to provide three or more access points, one access point may be access-controlled and limited to emergency access by authorized vehicles only.
18. Development shall be exempted from these standards if it is demonstrated the following conditions apply:

a. A traffic impact analysis allows a deviation;

b. No other street access points can be located due to existing lot configurations, absence of connecting streets, environmental, or topographic constraints;

c. NCDOT will not authorize the required number of entrances; or

d. Alternative access can be provided in a manner acceptable to the Town that is supported by a transportation impact analysis.

I. CURB AND GUTTER

Except in cases where a sidewalk or multi-purpose trail is located within a street right-of-way, or in cases where required by NCDOT, no street shall be required to provide a curb and gutter. When curb and gutter is required, it shall be provided in accordance with all applicable NCDOT standards.

J. STREET NAMES

01. All street names, including names for private streets, shall be in accordance with the County's street naming ordinance, and shall require approval by Henderson County prior to recordation of a Final Plat.

02. Where proposed streets are extensions of existing streets, or are in obvious alignment with existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.

03. Proposed street names shall not duplicate or phonetically approximate the name of any street anywhere within Mills River or unincorporated Henderson County.

K. STREET SIGNS

01. The subdivider or developer shall coordinate the installation of street signs as part of new development with Henderson County.

02. All streets within a development shall be marked with a street name sign of a design specification and location in accordance with Town or County requirements.

03. Decorative street signs shall be approved as to form and configuration by the County or NCDOT, as appropriate, prior to installation.

04. In cases where decorative street signs are proposed, the developer or subdivider shall be responsible for the cost of the decorative street signs.

05. Street signs shall be configured as break away signs in the event of collision with a vehicle.

06. All street name signs shall conform to Henderson County Property Addressing and/or NCDOT standards, as appropriate.

07. Street name signs shall be installed free of visual obstruction.

L. TRAFFIC CONTROL DEVICES

01. If deemed necessary by the Town or by NCDOT, signals shall be installed by the developer at each street intersection within the subdivision and at each intersection of a subdivision street and a state-maintained road or access road.

02. Signs and signals shall comply with NCDOT regulations with regards to size, shape, color, location, and information contained thereon.

03. At least two or more traffic-control signs shall be placed at each four-way street intersection and at least one at each "T" street intersection.

04. Signs and signals shall be installed free of visual obstruction.

6.5.11. WASTEWATER[22]

All development connected to a potable water supply shall include a wastewater treatment system configured to comply with the following standards:

A. WASTEWATER TREATMENT SYSTEM REQUIRED

[22] Carries forward and builds on the standards in Section 153.068 of the current Subdivision Ordinance.

01. Every development, building lot, and manufactured home space shall be served by a wastewater treatment or disposal system that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable Town, County, and State requirements.

02. All materials and pipes shall be provided by the subdivider and shall meet or exceed the requirements established by the State, Town, Henderson County Health Department, or utility service provider requirements for wastewater.

03. The Town may, before issuing any approval under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the wastewater treatment or disposal system requirements of this Ordinance.

B. CONFIGURATION

Public wastewater treatment systems shall comply with the following requirements:

01. The minimum diameter for a sewer main shall be eight inches, or in accordance with the utility provider's standards.

02. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible.

03. The developer shall install sewer mains so that all lots to be developed will be able to connect to the wastewater treatment system.

04. Sewer lines shall be installed solely within street rights-of-way unless no feasible alternative exists, in the sole opinion of the Planning Director.

05. The developer shall submit detailed drawings with the Construction Drawings plan associated with the development, prepared, and sealed by a professional engineer, showing the installation of the required wastewater infrastructure.

06. All materials and pipes shall meet or exceed the requirements of the public wastewater treatment system provider.

07. On streets which are stubbed out at property lines to permit future development, wastewater service must be provided by lines of at least eight inches in diameter, or in accordance with the utility provider's standards. This requirement is not applied in cases when abutting land is located within a different drainage basin.

C. ON-SITE WASTEWATER

01. All on-site wastewater disposal systems shall be designed and installed in accordance with Henderson County Health Department requirements.

02. In cases where a development includes lots to be served by individual on-site wastewater disposal systems, the application for a Preliminary Plat shall include a preliminary soil suitability analysis prepared by a professional engineer. Prior to approval of a Final Plat, all lots in the development indicated for on-site wastewater service shall be certified as capable of accommodating an on-site wastewater disposal system by a licensed soil scientist, professional engineer, or the Henderson County Health Department.

03. When proposing lots or units to be served by an on-site wastewater disposal system, the lot shall be of sufficient size to accommodate all proposed on-site utilities and provide an adequate building area.

04. In no instance shall on-site wastewater treatment facilities be located on a lot other than the lot where the principal use being served is located. Off-site septic easements are not permitted by this Ordinance.

05. In no instance shall a sewer service line serving an individual use extend across the lot line of a lot owned or controlled by a separate landowner.

06. In cases where an existing lot of record served by an on-site wastewater disposal system is proposed for subsequent re-subdivision, all plats must indicate the locations of exiting on-site wastewater disposal and on-site potable water systems.

07. Every plat with lots served by on-site wastewater disposal system shall include the following disclosure statement:

> "Public sanitary sewer services are not available, as of the date of the recording of this deed. All on-site potable water supply systems shall be designed and installed in accordance with Henderson County Health Department requirements."

D. PRIVATE COMMUNITY-LEVEL WASTEWATER TREATMENT FACILITIES

01. Existing, lawfully-established and functioning private community-level wastewater treatment facilities established prior to (*insert the effective date of this Ordinance*), shall be permitted to continue operation provided such systems continue to comply with all applicable Town, County, and State rules.

02. In no instance shall a wastewater service line associated with a private community-level wastewater treatment facility cross a lot line dividing two or more lots under separate ownership. Lots located within a unified development may be served by a community-level wastewater treatment facility that includes service lines that cross one or more lot lines.

§ 6.6 LANDSCAPING & SCREENING[23]

6.6.1. PURPOSE AND INTENT

The purpose of these provisions is to establish minimum requirements for the installation and maintenance of functionally adequate, attractive screening and buffering of buildings, certain site features, and off-street parking areas. These standards are intended to:

A. Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;

B. Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;

C. Shield adjacent properties from potentially adverse external impacts of adjacent land uses and activities;

D. Abate glare and moderate temperatures of impervious areas;

E. Help filter air of fumes and dust;

F. Provide shade;

G. Reduce noise;

H. Reduce the visual impact of large expanses of pavement;

I. Promote energy conservation;

J. Reduce the amount and rate of stormwater runoff and erosion;

K. Improve water quality;

L. Increase in the capacity for groundwater recharge; and

M. Enhance the appearance and value of both residential and non-residential development.

6.6.2. APPLICABILITY

The standards in this section apply to the following forms of development:

A. NEW PRINCIPAL BUILDINGS OR USES

New principal buildings, except for single-family detached dwellings on individual lots of record, open uses of land, and publicly-owned buildings or sites, constructed, reconstructed, or established after (*insert the effective date of this Ordinance*).

B. SUBDIVISIONS OF LAND

Except for subdivisions exempted from subdivision review by NCGS§160D-802, and Family Subdivisions (see Section <>, Family Subdivisions), all subdivisions of land taking place after (*insert the effective date of this Ordinance*) shall comply with the applicable landscaping and screening requirements in this section.

C. EXISTING DEVELOPMENT

Development existing prior to (*insert the effective date of this Ordinance*) but subject to any of the following changes shall come into full compliance with all applicable standards in this section in place at the time of application:

01. A change in principal use of a lot or site, unless the principal use is a single-family detached dwelling on its own lot;

02. An increase in the amount of impervious surface in a lot or site; or

03. An increase in the amount square footage or the footprint of a principal building on a lot or site.

D. MULTI-PHASE DEVELOPMENT

Development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Planning Director and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

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[23] This section replaces Sections 154.230 through 154.237, and includes new perimeter buffer (between lots), streetscape, parking lot, and screening standards. There are significant enhancements to the planting configuration and maintenance requirements.

6.6.3. EXEMPTIONS

The following forms of development are exempted from these standards:

A. Routine maintenance of existing vegetation, such as watering and fertilizing;

B. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Ordinance;

C. Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Ordinance, and shall require replacement of required vegetation; and

D. Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.

6.6.4. LANDSCAPING PLAN REQUIRED

Development subject to these standards shall include a landscape plan as part of the submittal for a Site Plan, Preliminary Plat, Concept Plan associated with a Special Use Permit, Conditional Rezoning application, Zoning Compliance Permit, or other application type, as directed by the Planning Director.

A. GENERALLY

01. A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application Site Plan, Preliminary Plat, Concept Plan associated with a Special Use Permit, Conditional Rezoning application, Zoning Compliance Permit, as appropriate, to ensure compliance with this section.

02. The landscape plan shall be approved prior to, or concurrent with an associated application.

03. A landscape plan shall be prepared or sealed by a professional engineer or a registered landscape architect and contain, at a minimum, the following:

a. Location of required planting material;

b. Grouping or clusters of planting material, if proposed;

c. Identification of required plants, including their scientific names;

d. Minimum and maximum dimensions of all planting yard areas;

e. Calculations determining the number of canopy trees, understory trees, and shrubs required;

f. Locations, species, sizes, and methods of protection during construction for existing trees to be retained and counted towards minimum landscaping requirements; and

g. Existing topography, or proposed topography where site grading is proposed to occur.

B. LANDSCAPING IN A STORMWATER RETENTION POND

If trees or shrubs are proposed on or within 20 feet of the embankment of a stormwater retention pond, a landscape plan showing the retention pond and surrounding landscaping shall be submitted for review to determine that the safety and functionality of the device will not be compromised by the trees or shrubs.

C. PHASED DEVELOPMENT

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved as part of development of that phase.

6.6.5. PLANT MATERIAL SPECIFICATIONS

A. CANOPY TREE SIZE

01. Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet (see Figure <>, Plant Material Specifications).

02. All canopy trees shall have a minimum height of eight feet, or more, and a minimum caliper size of 2.5 inches, or more, at planting (see Section <>, Plant Measurement).

03. Evergreen trees shall be a minimum of eight feet in height at planting.

B. UNDERSTORY TREE SIZE

01. Understory trees shall have a minimum height at maturity of 15 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet (see Figure <>, Plant Material Specifications).

02. All understory trees shall have a minimum height of six feet, or more, and a minimum caliper size of two inches, or more, at planting (see Section <>, Plant Measurement).

03. Drought tolerant understory trees shall be so designated in the field and shall have a minimum caliper size of one-and-half inches inch at planting.

04. Nothing shall limit the use of multi-stemmed understory trees provided that 25 percent or more of the leaders meet the requirements in Section <>, Plant Measurement.

C. SHRUB SIZE AND VARIETY

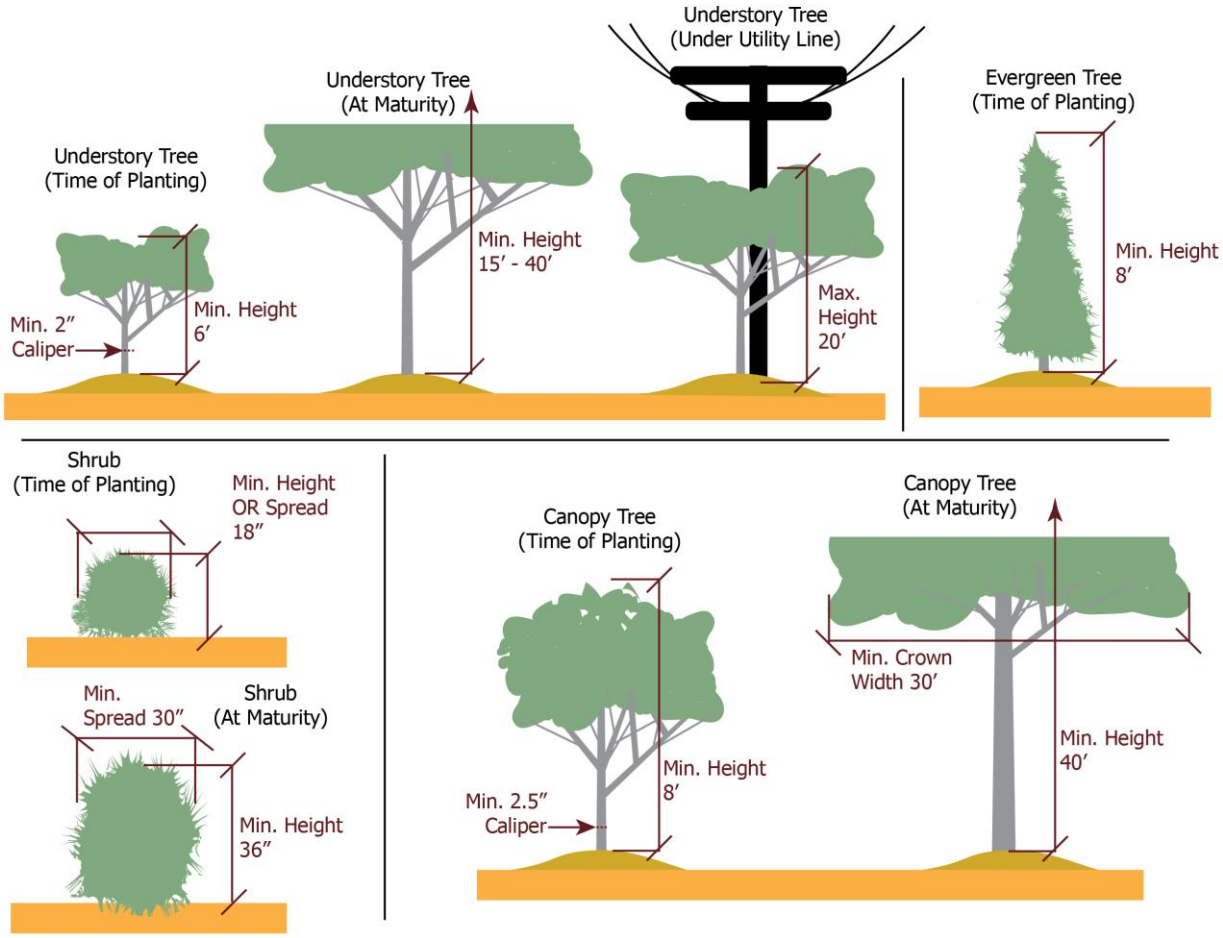
01. All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting (see Figure <>, Plant Material Specifications).

02. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.

03. Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the Planning Director.

04. Shrubs or grasses used to screen off-street parking areas shall be evergreen or retain their leaves/blades during the winter months.

FIGURE <>: PLANT MATERIAL SPECIFICATIONS



D. NATIVE OR LOCALLY-ADAPTED SPECIES

01. Required landscaping materials shall be cold-hardy for the location where planted.

02. Use of exotic or other invasive species is prohibited.

03. Plant species used in required landscaping areas shall be listed as a preferred species in Section <>, Preferred and Prohibited Vegetation. Use of native species is strongly encouraged.

E. SPECIES DIVERSITY

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

01. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions (see Figure <>, Species Diversity);

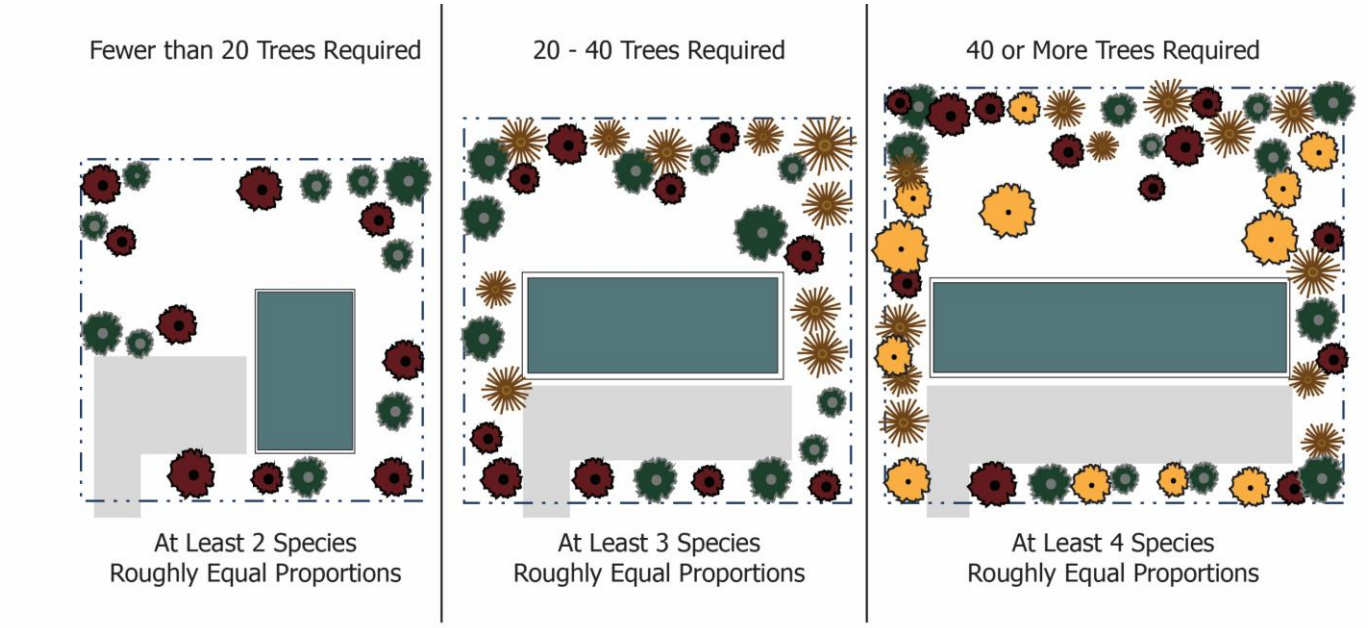
02. When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions;

03. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions;

04. A larger number of different species than specified may be utilized; and

05. In no instance shall invasive species, as determined by the North Carolina Forest Service, the NC Invasive Plant Council, the NC Agricultural Extension Office, or other recognized source, be utilized as landscaping materials to meet the requirements of this Ordinance.

FIGURE <>: SPECIES DIVERSITY



F. SOIL STABILIZATION

01. Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep and free of large stones, rubble, trash, or other debris.

02. Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.

03. Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a Certificate of Occupancy.

04. Use of landscape fabric on slopes of 15 percent or more is discouraged.

6.6.6. PLANT MEASUREMENT

A. DETERMINING TREE SIZE AT TIME OF PLANTING

01. TREES UNDER FOUR INCHES IN CALIPER

The minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of six inches above the bole, or the location where tree trunk meets the soil it is planted in.

02. TREES OVER FOUR, BUT LESS THAN TWELVE INCHES, IN CALIPER

The minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of 12 inches above the bole, or the location where tree trunk meets the soil it is planted in.

03. TREES OF TWELVE INCHES, OR MORE, IN CALIPER

Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.

04. EVERGREEN TREES AND MULTI-STEMMED TREES

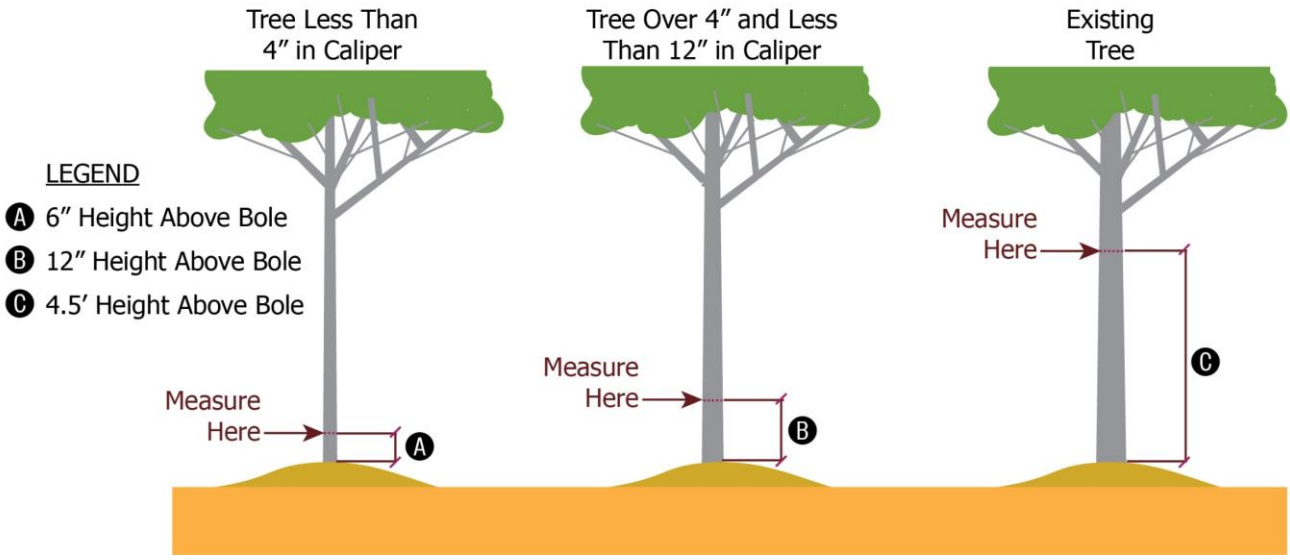
Regardless of caliper size, evergreen and multi-stemmed trees shall be at least eight feet in height measured from the bole to the highest portion of the main leader. In the case of multi-stemmed trees, the main leader shall be the leader with the largest individual caliper size.

B. DETERMINING TREE SIZE OF EXISTING TREES

01. Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.

02. In the case of a multi-stemmed tree, the cumulative DBH shall be the square root of the sum of all the individual stem diameters squared. As an alternative, the tree's basal area is the sum of the diameters of all tree stems.

FIGURE <>: PLANT SIZE DETERMINATION



C. ROUNDING

When computation of the amount of landscaping material to be provided results in a fraction, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

D. CALCULATION OF REQUIRED LANDSCAPING YARD OR AREA DISTANCES

01. In cases where a driveway, sidewalk, or greenway trail intersects a required landscaping area or yard, the width of these features shall be subtracted from the yard or area distance.

02. In cases where an easement that prohibits the placement of landscaping material intersects a required landscaping yard or area, the width of the easement shall not be subtracted from the required yard or area distance. Required plant material shall be located outside the easement but within the required landscaping area or yard.

6.6.7. PLANT PLACEMENT

A. OUTSIDE PUBLIC STREET RIGHTS-OF-WAY

Required landscaping material shall not be located within a public street right-of-way.

B. GROUPING OF PLANT MATERIAL

01. Except for vegetation within a type A perimeter buffer, shrubs around a parking lot perimeter, or when vegetation is included as a screening device in accordance with Section <>, Screening, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed.

02. Required plant material in a type A perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table <>, Perimeter Buffer Configuration.

03. Shrubs intended to screen features in accordance with Section <>, Screening, may not be grouped if such grouping results in the failure to meet the minimum screening standards of this Ordinance.

C. MULTIPLE-LOT UNIFIED DEVELOPMENT

A multiple-lot unified development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section <>, Perimeter Buffers.

D. EASEMENTS

01. Landscaping material may not be located within a public utility or drainage easement.

02. When authorized, trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.

03. When landscaping is within an easement, the landowner is responsible for replacement of any required vegetation if maintenance or other actions result in its removal.

04. Where an easement and a required landscape area coincide and there is a prohibition on planting within the easement, then the required landscaping area shall be located outside the easement.

E. CONFLICTS WITH SETBACKS, EASEMENTS, AND REQUIRED LANDSCAPING AREAS

In cases where a required setback or yard is smaller or more narrow than a required landscaping area, or when a public utility or drainage easement exists within the area to be occupied by a required landscaping area, the landscaping area width or size shall not be reduced except as authorized by any of the following:An alternative plan (see Section <>, Alternative Plan);

02. An administrative adjustment (see Section <>, Administrative Adjustment); or

03. A conditional rezoning approval (see Section <>, Conditional Rezoning).

F. FIRE PROTECTION SYSTEM

The minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

G. LANDSCAPING IN BIO-RETENTION CELLS

Trees and shrubs used in bio-retention cells or rain gardens located in parking lots or within perimeter buffers are credited toward the respective tree or shrub requirements of this Ordinance, provided they meet the minimum specifications in Section <>, Plant Material Specifications.

H. PERMITTED ENCROACHMENTS

01. The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained and provided any encroachments into a required setback are in accordance with Table <>, Allowable Encroachments into Required Setbacks:

a. Principal buildings, provided the minimum setbacks of the zoning district where located, are maintained;

b. Landscaping features such as ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;

c. Pet shelters, well houses, and mechanical enclosures;

d. On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;

e. Ornamental entry columns, gates, fences, walls, and retaining walls;

f. Lamp and address posts;

g. Utility cabinets of four feet in height or less;

h. Mailboxes; and

i. Signage.

02. The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:

a. Driveways, sidewalks, sidepaths, or greenways;

b. Utilities; and

c. Stormwater management facilities.

I. PROHIBITED FEATURES

The following features shall not be located within a required landscaping area:

01. A secondary structure or open-air use;

02. Off-street parking or loading areas; or

03. Outdoor storage or display of products for sale.

6.6.8. PARKING LOT LANDSCAPING

All off-street parking lots with ten or more spaces serving multi-family, townhouse, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards.

A. PARKING LOT INTERIOR PLANTINGS

01. AREA TO BE LANDSCAPED

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot (see Figure <>, Parking Lot Interior Plantings).

02. LANDSCAPING ISLANDS AND STRIPS

A parking aisle with 12 or more vehicle spaces in a single row shall provide and maintain landscaping islands at each end of the row as well as a landscaping island located every 12 spaces, in accordance with the following standards:

a. Islands shall have no minimum dimension less than nine feet and a minimum area of 180 square feet, including the curb (if curbing is provided);

b. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;

c. Off-street parking lots of 100 or more spaces shall include at least one landscaping strip for every six rows of parking spaces; and

d. Landscaping strips, when required, shall maintain a minimum width of nine feet and run the full length of a row of parking spaces. Landscape strips shall include shrubs and a pedestrian walkway of at least five feet in width and configured to comply with applicable ADA requirements, and may include trees and parking lot lighting, provided tree trunks are at least five feet from the pedestrian accessway.**PROTECTION OF LANDSCAPE ISLANDS**

a. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.

b. The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

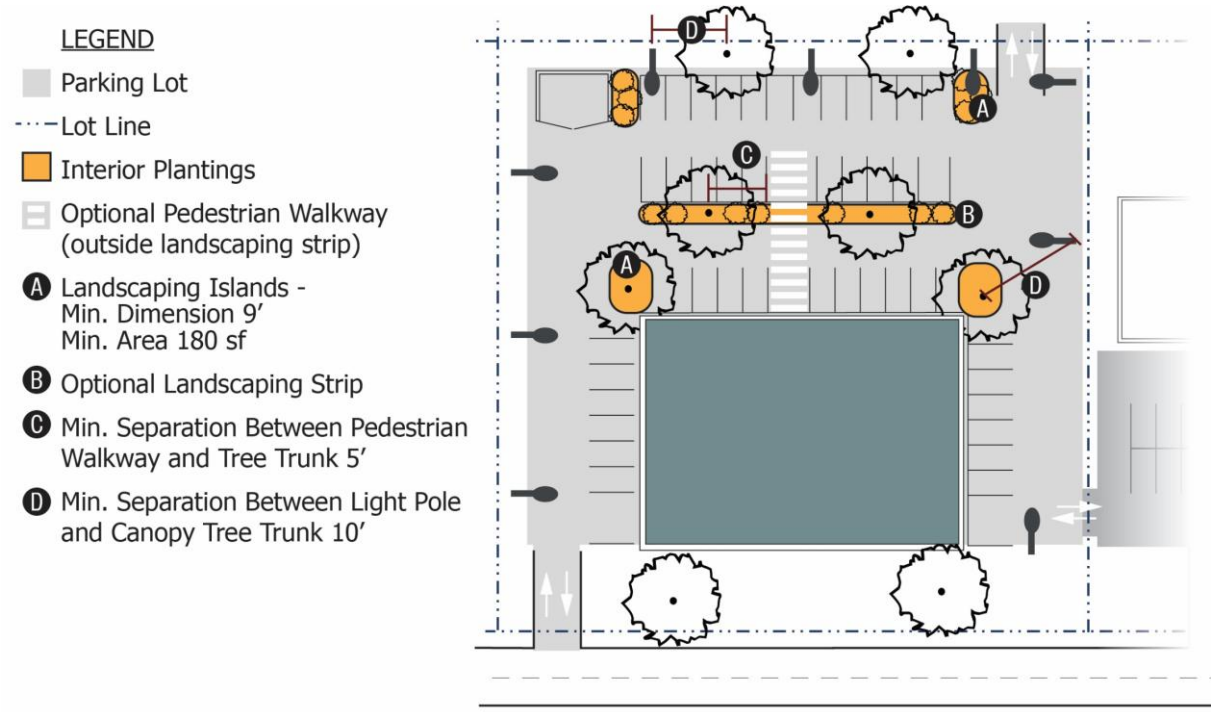
04. STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater control measure, provided its landscaping performance function is maintained.

05. STRUCTURAL SOIL REQUIRED

Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared structural soil that has been amended and cultivated to support healthy vegetation.

FIGURE <>: PARKING LOT INTERIOR PLANTINGS



B. PARKING LOT PERIMETER PLANTINGS

01. INTENT

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

02. LOCATION

Required plant material shall be placed adjacent to the perimeter of the parking lot. Landscaping material located within the boundaries of the parking lot paving shall not be credited towards these perimeter planting requirements.

03. PLANTING RATE

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

04. SIZE OF PLANT MATERIAL

a. Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.

b. In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they shall be trimmed or pruned as necessary to maintain a minimum height of 36 inches.

c. It shall be a violation of this Ordinance to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

05. CREDIT TOWARDS REQUIRED PERIMETER BUFFERS

Perimeter parking lot landscaping may be credited towards the perimeter buffer requirements in this Ordinance only in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter landscaping buffer.

06. ALTERNATIVES

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with Section <>, Berms, or an opaque fence or wall that meets the screening objective of this section.

07. EXEMPTIONS

a. Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings or other forms of screening are not required along the common boundary between the two parking lots.

b. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

C. SHADE TREES

All parking lots shall be served by shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

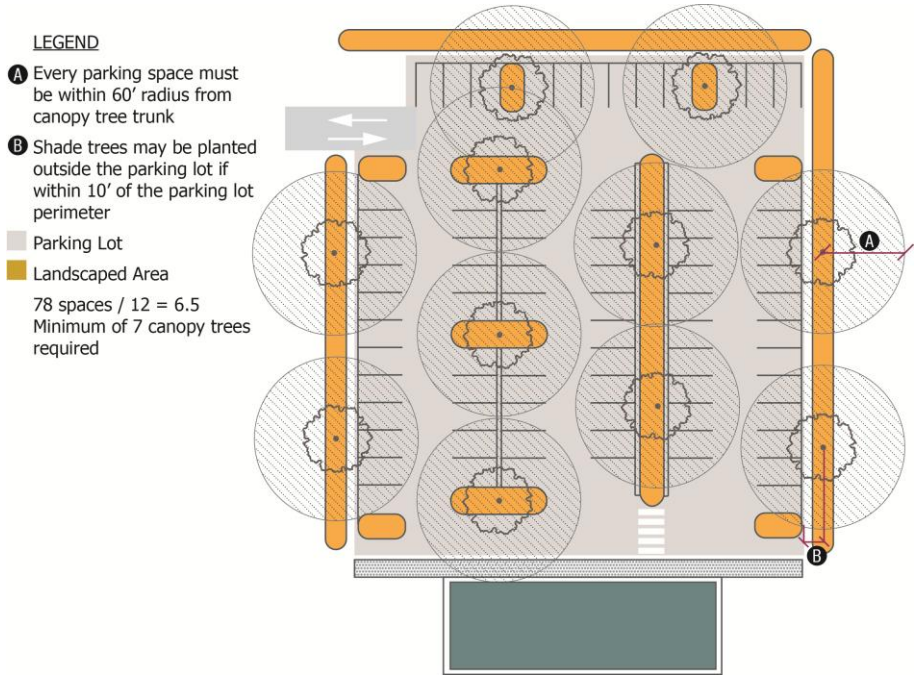
01. Parking lots subject to these standards shall include at least one canopy tree for every 12 off-street parking spaces provided;

02. Required canopy trees may be placed around, in, or near the parking lot provided that no parking space is more than 60 feet from the trunk of a canopy tree (see Figure <>: Parking Lot Shading);

03. Any canopy tree on the site meeting the applicable dimensional requirements may be credited towards the shade tree requirement, even if it is part of a different kind of required landscaping; and

04. Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, between rows of parking, in driveway medians, and around the perimeter of the parking lot.

FIGURE <>: PARKING LOT SHADING



6.6.9. PERIMETER BUFFERS

A. PURPOSE AND INTENT

These standards are proposed to eliminate or minimize potential impacts, such as dirt, litter, noise, glare of lights, and unsightly features through physical and visual separation between land uses in separate zoning districts.

B. APPLICABILITY

01. All development subject to these landscaping standards shall comply with the perimeter buffer standards in this section.

02. Development shall provide perimeter buffers along side and rear lot lines in accordance with Table <>, Buffer Application.

03. Lot lines abutting street rights-of-way shall comply with the standards in Section <>, Streetscape Buffers.

C. BUFFERS DISTINGUISHED

Table <>, Perimeter Buffer Configuration, establishes the standards for perimeter buffers, including the minimum requirements for each of the following buffer types:

01. Type A, Separation Buffer;

02. Type B, Intermittent Buffer;

03. Type C, Semi-Opaque Buffer; and

04. Type D, Opaque Buffer.

D. BUFFER DETERMINATION

01. The lot or site being developed is the one responsible for providing the required perimeter buffer, which shall be located solely upon the lot or site being developed.

02. Landscaping material located on an adjacent lot may not be credited towards these perimeter buffer requirements.

03. The type of perimeter buffer required is based upon the zoning district designation of the land being developed as well as the zoning district designation of the abutting lots (see Table <>, Buffer Application).

E. BUFFER LOCATION

01. Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.

02. In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.

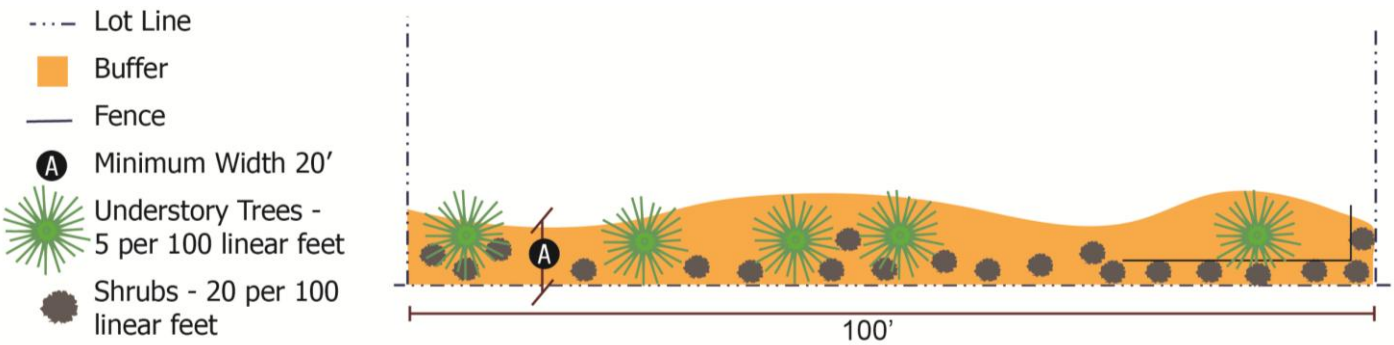
03. A perimeter buffer may be located along shared access easements between parcels in non-residential developments.

F. BUFFER CONFIGURATION

TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE A – SEPARATION

The Type A Separation perimeter buffer serves as a visual break between land ownership or zoning district designations. It is not intended to provide complete visual or acoustic buffering. The image below shows an approximation of this buffer type at maturity.

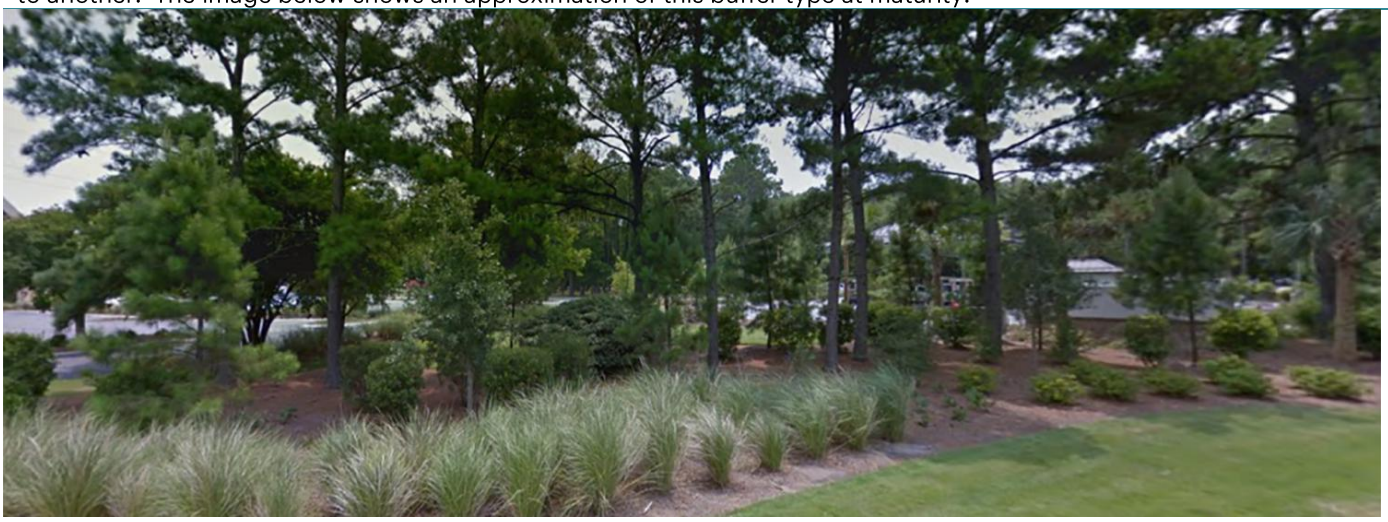


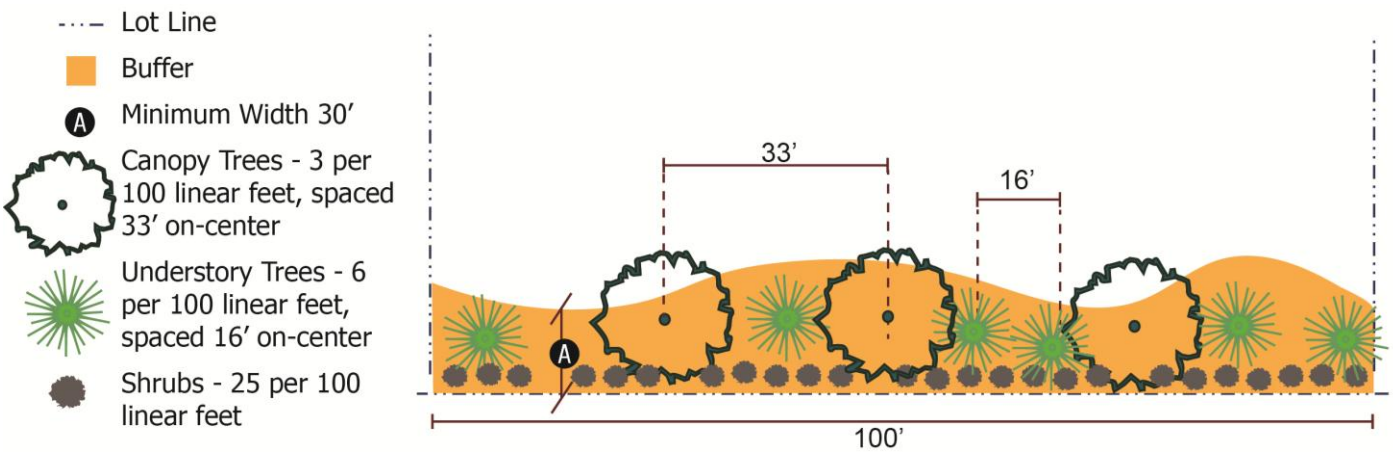
BUFFER CONFIGURATION	MINIMUM REQUIREMENT
Buffer width (feet)	20 (Minimum)
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	None / None
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	5 / None [1]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	20 / None [1]
Minimum percentage of evergreen shrubs (% of total along 1 side)	50
NOTES:	[1] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 30 feet in length. [2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and t–e lot line, but no closer than three feet to the lot line.

TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE B - INTERMITTENT

The Type B Intermittent perimeter buffer functions as an intermittent visual screen from the ground to a height of five feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another. The image below shows an approximation of this buffer type at maturity.



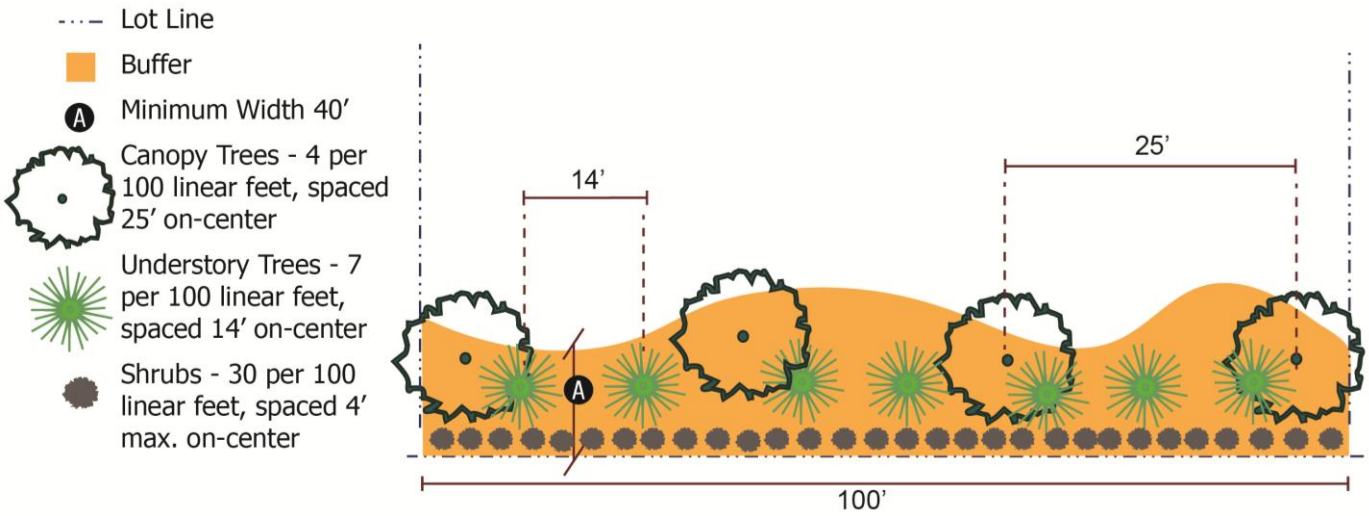


BUFFER CONFIGURATION	MINIMUM REQUIREMENT
Buffer width (feet)	30
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	3 / 33
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	6 / 16 [1]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	25 / None [1]
Minimum percentage of evergreen shrubs (% of total along 1 side)	60
NOTES:	[1] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 30 feet in length. [2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE C – SEMI-OPAQUE

The Type C Semi-Opaque perimeter buffer functions as a partially opaque screen from the ground to a height of six feet. This type of buffer prevents visual contact between uses but not total obstruction from one use to another. The buffer creates a sense of visual separation but provides only minor acoustic separation. The image below shows an approximation of this buffer type at maturity.

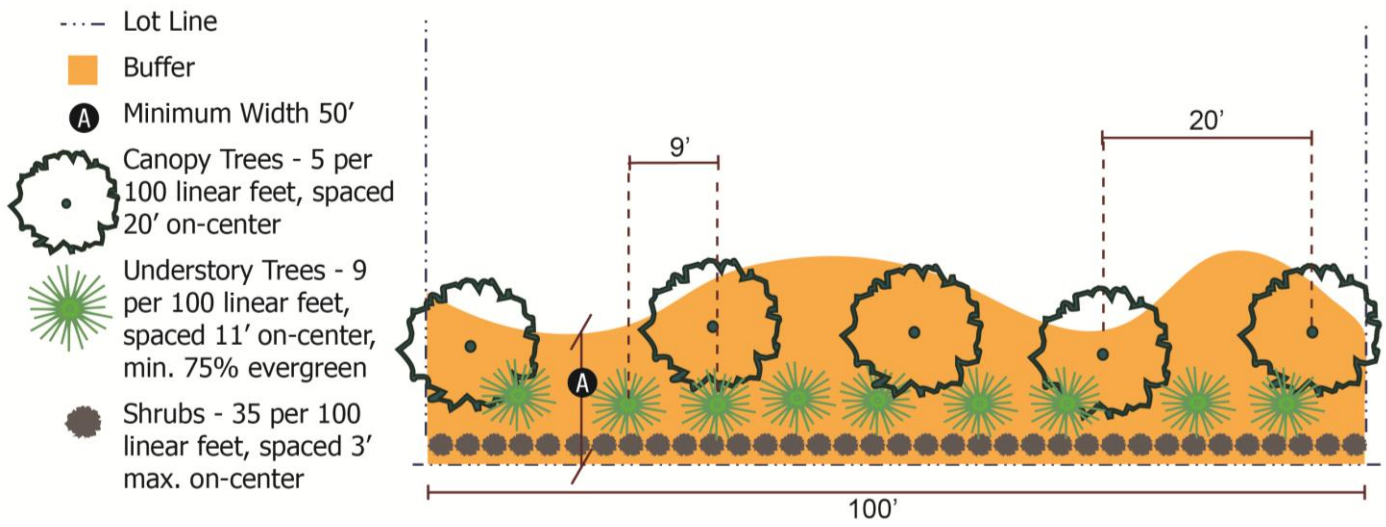


BUFFER CONFIGURATION	MINIMUM REQUIREMENT
Buffer width (feet) [1]	40
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / 25
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	7 / 14 [2]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [3]	30 / 4 [2]
Minimum percentage of evergreen shrubs (% of total along 1 side)	75
NOTES:	[1] Provision of a semi-opaque fence or wall along the entire buffer span allows the buffer width to be reduced by 5 feet (chain-link fencing is not permitted). Provision of a fully-opaque fence, wall, or berm along the entire buffer span allows the buffer width to be reduced by 10 feet. [2] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 20 feet in length. [3] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE D – OPAQUE

The Type D Opaque perimeter buffer functions as a fully opaque screen from the ground to a height of eight feet. This type of buffer provides a strong sense of visual and acoustic separation between uses. The cross-section image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	MINIMUM REQUIREMENT
Buffer width (feet) [1]	50
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	5 / 20
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	9 / 11
Minimum percentage of evergreen understory trees (% of total along 1 side)	75
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	35 / 3
Minimum percentage of evergreen shrubs (% of total along 1 side)	85
NOTES:	[1] Provision of a semi-opaque fence or wall along the entire buffer span allows the buffer width to be reduced by 5 feet (chain-link fencing is not permitted). Provision of a fully-opaque fence, wall, or berm along the entire buffer span allows the buffer width to be reduced by 10 feet. [2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

G. BUFFER APPLICATION

Table <>, Buffer Application, specifies the type of perimeter buffer that development shall provide between it and adjacent land, based on the zoning district of the development site and that of the adjacent land. The buffer type is indicated by a letter corresponding to one of the four buffer types described in Table <>, Perimeter Buffer Configuration.

TABLE <>: BUFFER APPLICATION

ZONING DISTRICT OF DEVELOPING LAND [1]	ZONING DISTRICT OF LAND ADJACENT TO PROPOSED DEVELOPMENT [2] [3] [4] [5] [6]					
	CON, RPV, RUR	LDR, RCZ	MXR, RUM	TNC, MCZ	GLC, CCZ	IND, ICZ
CON, RPV, RUR	A	None	None	A	B	B
LDR, RCZ	B	A	A	A	A	B
MXR, RUM	C	B	A	A	A	A
TNC, MCZ	D	C	B	A	A	None
GLC, CCZ	D	D	C	B	A	None
IND, CZI	D	D	D	D	C	None

NOTES:

[1] This column identifies the zoning district of the land that is developing and is responsible for providing a perimeter buffer.
[2] Lot lines abutting public street rights-of-way shall be subject to the standards in Section <>, Streetscape Buffers.
[3] A perimeter buffer shall not be required when the developing lot abuts unbuildable land within a riparian buffer, a lot in the Special Flood Hazard Area Overlay (SFHA) district, or other Town-designated conservation area where existing vegetation will not be removed.
[4] A type A buffer shall be provided along all lot lines bordering the Town's jurisdiction.
[5] A type D buffer of at least 40 feet in width shall be provided along all lot lines bordering an interstate or limited access highway, including on- and off-ramps, and railroad lines.
[6] A perimeter buffer is not required if proposed development is surrounded by existing vegetation of a minimum width necessary to obstruct view from off-site areas provided such existing vegetation remains in place in perpetuity.

H. EXEMPTIONS

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter buffers are only located around the perimeter of the entire development instead of between lots within the development.

6.6.10. SCREENING

A. PURPOSE AND INTENT

These standards are intended to reduce the visual and auditory impact upon adjacent lots and the public realm from certain site features and activities occurring on individual non-residential, multi-family, townhouse, and mixed-use lots. In addition to mitigating negative impacts, these standards are also proposed to enhance the aesthetics of development in the Town.

B. USING THESE STANDARDS

01. These standards identify a series of use types, site features, and activities that are required to be screened from off-site views (see Section <>, Applicability, and Section <>, Exemptions).

02. The standards establish a series of screening methods organized into differing levels (e.g., Level 1 through Level 10). The higher the screening method's level number, the greater its opacity, or its ability to obscure a particular site feature from off-site view (see Table <>, Screening Methods).

03. In addition to a range of screening methods, these standards also recognize that differing levels of screening are necessary from different viewpoints. For example, the ways in which a refuse collection feature should be screened from view from an adjacent single-family detached dwelling likely differ from the ways in which the same refuse collection feature needs to be screened from the back of a commercial establishment or from a private street. The standards identify which methods of screening may be used to screen a particular site feature or activity from the view from a particular location, such as an adjacent street or abutting lot with residential zoning (see Table <>, Views to be Screened). Nothing prohibits a landowner from using a more intense or opaque screening technique than is required by Table <>, Views to be Screened.

C. APPLICABILITY

01. GENERALLY

Unless exempted in accordance with Section <>, Exemptions, the standards in this section apply to the following site features and activities for all development in the Town's jurisdiction:

a. Refuse collection containers of more than one cubic yard in size;

b. Recycling containers of one cubic yard in size, including cardboard recycling containers;

c. Waste and cardboard compactors;

d. Ground-based mechanical equipment, including but not limited to wireless telecommunications equipment, permanently-mounted electrical generators, compressors, climate control equipment, electrical circuit breaker panels or disconnects, and similar equipment;

e. Roof-mounted equipment of any kind;

f. Above ground storage tanks for gases, solids, or liquids;

g. Outdoor equipment storage or repair areas;

h. Outdoor storage of raw or semi-finished materials, including tires;

i. Outdoor storage of finished products for sale, including tires;

j. The outdoor storage, repair, or impoundment of vehicles or equipment, whether operable, inoperable, or being used for parts; and

k. Other items as determined by the Planning Director as part of a determination prepared in accordance with Section <> Determination.

02. PRE-EXISTING DEVELOPMENT

Lawfully-established development existing prior to (*insert the effective date of this Ordinance*) shall not be subject to these standards.

03. REDEVELOPMENT OR CHANGE IN USE

Changes in principal use, increases in the amount of impervious surface or changes in building square footage of existing development established prior to (insert the effective date of this Ordinance) shall comply with these standards in accordance with Section <>, Applicability.

D. EXEMPTIONS

The following items are exempted from the screening requirements of this section:

01. Any of the features listed in the sub-section (C.01) above that are located entirely within a building;

02. Refuse collection containers serving individual single-family detached or duplex dwellings;

03. Refuse containers serving an individual townhouse dwelling unit located on the same building lot as the townhouse dwelling it serves;

04. Mechanical and climate control equipment serving individual single-family detached, townhouse, or duplex dwellings;

05. Utility meters, whether wall or ground mounted;

06. Small wireless facilities;

07. Roof-mounted solar energy or wind energy conversion devices;

08. Transformers and similar devices serving electric vehicle charging stations;

09. Family health care structures;

10. Outdoor display/sales as a principal or secondary use subject to an approved Zoning Compliance Permit (see Section <>, Zoning Compliance Permit);

11. Outdoor seasonal sales and portable storage containers subject to an approved Temporary Use Permit (see Section <>, Temporary Uses); and

12. Above ground storage tanks serving individual single-family detached, townhouse, and duplex dwellings located upon the same lot as the dwelling(s) it serves.

E. GENERAL REQUIREMENTS

01. Items or activities subject to the requirements in this section shall be fully screened from one or more off-site views in accordance with Section <>, Views to be Screened, using one of the allowable methods identified in Table <>, Screening Methods.

02. Table <>, Screening Methods, sets out the various methods for screening site features and activities subject to these standards. Screening, when required, shall comply with the configuration requirements listed in the table.

F. SCREENING METHODS

TABLE <>: SCREENING METHODS [1]

A. SCREENING LEVEL 1 UNDERSTORY SHRUB ROW

i. All shrubs shall be of the same species and all shrubs shall be of an evergreen species.
ii. Screening shall include one row of evergreen shrubs.
iii. The screening shall include plants capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the minimum height required.
iv. Shrubs shall maintain an on-center spacing of no greater than 36 inches.
v. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 5 feet above grade within 3 years.
vi. If damaged in a manner that impairs the performance of screening, vegetative material shall be promptly replaced.

TABLE <>: SCREENING METHODS [1]

B. SCREENING LEVEL 2 EVERGREEN TREE HEDGEROW

i. All trees shall be evergreen and of the same species.
ii. The screening material shall be configured as two staggered rows of trees that together form a hedgerow.
iii. The area devoted to screening material shall be at least six feet in depth on each side.
iv. Each trees shall be capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the required height.
v. Tree rows shall be planted no more than 36 inches apart.
vii. Trees shall maintain an on-center spacing of no greater than 36 inches.
vii. Trees shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years.
ix. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.

C. SCREENING LEVEL 3 CHAIN LINK FENCE WITH SEMI-OPAQUE SLATS/FABRIC

i. All fencing shall remain subject to maximum fence or wall height standards for the district where located.
ii. Fencing shall be at least 60 percent opaque, when viewed from a distance of 10 feet or more.
iii. All gates shall maintain a complementary level of opacity excluding gaps for mounting hardware, latches, and hinges.
iv. Slats or fabric shall extend downwards to the grade level.
v. The fence and screening material shall be comprised of consistent materials and shall maintain a single color.
vi. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.

TABLE <>: SCREENING METHODS [1]

D. SCREENING LEVEL 4 CHAIN LINK FENCE WITH FULLY OPAQUE SLATS/FABRIC

i. All fencing shall maintain a minimum height of six feet above adjacent grade, but shall not exceed the maximum fence height standards for the district where located.
ii. Fencing shall be 100 percent opaque, when viewed from a distance of 10 feet or more.
iii. All gates shall maintain a complementary level of opacity excluding gaps for mounting hardware, latches, and hinges.
iv. Slats or fabric shall extend downwards to the grade level.
v. The fence and screening material shall be comprised of consistent materials and shall maintain a single color.
vi. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.

E. SCREENING LEVEL 5 WOODEN OPAQUE FENCE

i. Fencing shall be configured in accordance with the North Carolina Building Code.
ii. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet.
iii. All gates shall maintain a complementary level of opacity excluding gaps for mounting hardware, latches, and hinges.
iv. The fence shall be comprised of consistent materials and colors.
v. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures.
vi. Screening material shall be promptly repaired if damaged in any way.

TABLE <>: SCREENING METHODS [1]

F. SCREENING LEVEL 6 OPAQUE MASONRY WALL

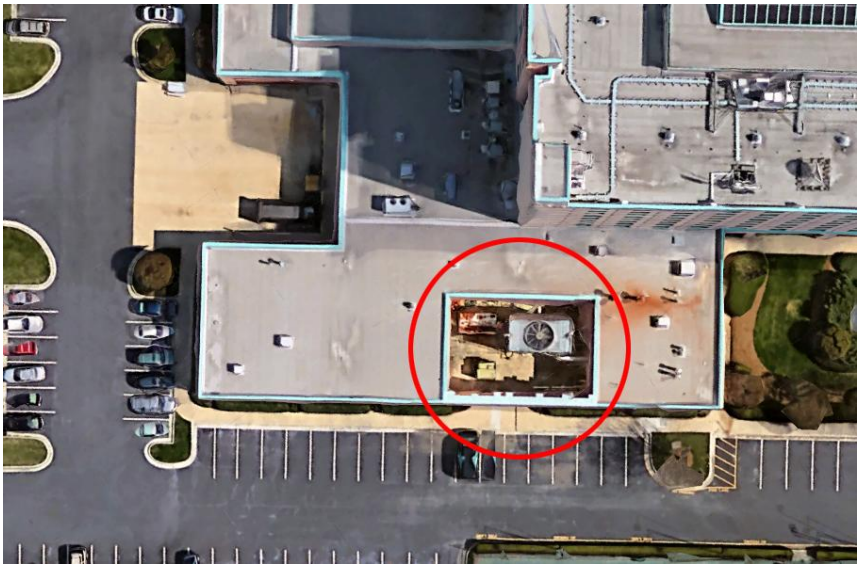
i. All walls shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet.
ii. The wall shall be comprised of consistent materials and colors to those used on the principal structure.
iii. Masonry walls may incorporate louvers or similar features, provided the screening function is maintained.
iv. All gates shall be comprised of a complementary material and be opaque, excluding gaps for mounting hardware, latches, and hinges.
v. Support columns may exceed the maximum height as necessary for wall construction.
vi. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures.
vii. Screening material shall be promptly aired if damaged in a manner that reduces the screening function.

G. SCREENING LEVEL 7 BERMS AND MOUNDS

i. Berms shall be configured in accordance with the standards in Section <>, Berms.
ii. Nothing shall limit the use of retaining walls, as necessary.
iii. Berms shall be supplemented with walls, fencing, or vegetation as necessary to meet screening objectives.

TABLE <>: SCREENING METHODS [1]

H. SCREENING LEVEL 8 CONCEALMENT BY OTHER ON-SITE STRUCTURES



i. Site features and activities subject to these standards may be screened by other permanent buildings or structures on the same lot.
ii. Buildings or structures used to provide screening shall be permanent and shall be of a minimum height necessary to provide required screening.

(note: red circle in photo added for clarity)

I. SCREENING LEVEL 9 ROOF SCREENING

i. Roof screening shall match the primary exterior color of the building, be 100 percent opaque, and shall only be used to screen items on a roof.
ii. Roof screening shall extend the minimum height necessary to fully screen roof-mounted equipment as seen at grade from any lot line.
iii. Roof-mounted equipment on pitched roofs shall be located on the side of the roof least visible from the street, to the maximum extent practicable.

TABLE <>: SCREENING METHODS [1]
J. SCREENING LEVEL 10 PARAPET WALL
i. Parapet walls shall be comprised of the same exterior material or be the same color as the building and shall be capped with a cornice, coping, or other decorative molding. ii. Parapet walls shall be in alignment with the exterior building wall below. iii. Parapet walls shall extend above the roof deck the minimum height necessary to screen roof-mounted equipment as seen from grade-level at the lot line. iv. Parapet walls shall be engineered to comply with all applicable North Carolina Building Code requirements, including wind loading.
NOTES: [1] Screening provided in accordance with this section shall be credited towards perimeter buffer and parking lot landscaping requirements when the screening methods contribute to the performance objective of required landscaping.

G. VIEWS TO BE SCREENED

Site features and activities subject to these standards shall be screened from identified locations in Table <>, Views to be Screened. The level of screening provided is at the applicant or landowner's discretion, provided it meets or exceeds the minimum screening level specified in the table below.

TABLE <>: VIEWS TO BE SCREENED

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM LAND IN A COMMERCIAL ZONING DISTRICT	FROM LAND IN AN INDUSTRIAL ZONING DISTRICT
Refuse or Recycling Containers or Compactors	6 or higher	5 or higher	3 or higher	2 or higher
Ground-based Mechanical Equipment	4 or higher	4 or higher	3 or higher	1 or higher

TABLE <>: VIEWS TO BE SCREENED

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM LAND IN A COMMERCIAL ZONING DISTRICT	FROM LAND IN AN INDUSTRIAL ZONING DISTRICT
Roof-mounted Equipment	10	9 or higher	9 or higher	8 or higher
Above Ground Storage Tanks	5 or higher	5 or higher	3 or higher	1 or higher
Outdoor Storage of Raw or Semi-finished Materials	5 or higher	4 or higher	3 or higher	1 or higher
Outdoor Storage of Finished Products for Sale including vehicles for sale, but not including parts or partial assemblies of products	2 or higher	2 or higher	1 or higher	1 or higher
Outdoor Storage of Equipment and Vehicles that are Licensed and Operable but not for Purposes of Sale	3 or higher	4 or higher	3 or higher	1 or higher
All Other Forms of Outdoor Storage of Equipment or Vehicles, including Inoperable, Unlicensed, Wrecked, or Junked	5 or higher	4 or higher	3 or higher	3 or higher

6.6.11. STREETSCAPE BUFFERS

A. PURPOSE AND INTENT

Streetscape buffers are proposed to soften the view of development from the Town's street rights-of-way, and are intended to:

01. Enhance pedestrian orientation and encourage pedestrian travel;
02. Address heat islands by providing shade for streets and parking lots;
03. Provide shade on sidewalks;
04. Promote the Town's rural character and "sense of place";
05. Support property values by enhancing the aesthetic character of the Town's streets; and
06. Provide habitat for flora and fauna.

B. APPLICABILITY

Streetscape buffers, configured in accordance with these standards, shall be provided adjacent to major and minor street rights-of-way on lots in the LDR, MXR, RCZ, GLC, TNC, MCZ, CCZ, IND and ICZ districts in accordance with the following:

01. The standards in this section shall apply to all lot lines bounded by the following features, whether existing or identified in the Town's adopted policy guidance:

a. Minor streets; and

b. Major streets.

02. In cases where a future street is planned but its approximate location is not indicated on an adopted or approved Town map or plan, streetscape buffering shall not be required on lots abutting the future street alignment.

03. In cases where the rear yard of a lot abuts a Town street right-of-way, the rear yard shall include a streetscape buffer configured in accordance with these standards.

C. EXEMPTION

Streetscape buffers are not required in the following locations:

01. Adjacent to portions of lot lines crossed by driveways, private drives, or alleys;

02. Lot lines abutting platted street rights-of-way that are or have remained unopened for at least 15 years; or

03. Lot frontages where the entirety of the lot frontage is within a required sight distance triangle.

D. REQUIRED PLANT MATERIAL

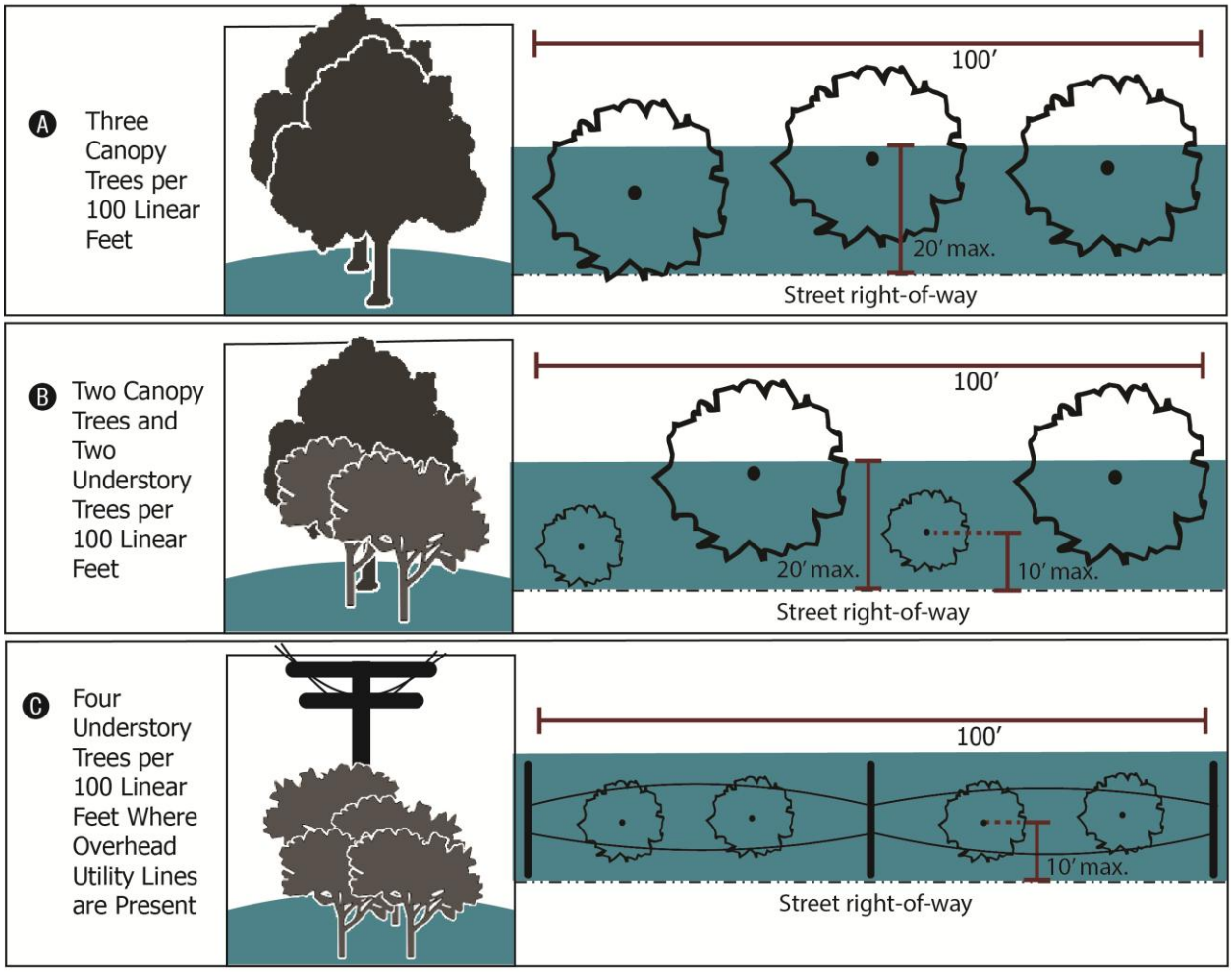
Streetscape buffers shall be configured in one of the following three ways (see Figure <>: Streetscape Buffer Configuration):

01. Three canopy trees for every 100 linear feet of lot frontage; or

02. Two canopy trees and two understory trees for every 100 linear feet of lot frontage; or

03. Four understory trees for every 100 linear feet, where overhead utilities are present.

FIGURE <>: STREETSCAPE BUFFER CONFIGURATION



E. PLACEMENT

01. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.
02. Canopy trees shall be located within 20 feet of the right-of-way edge.
03. Understory trees shall be located within 10 feet of the right-of-way edge.
04. An alternative location may be approved by the Planning Director in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.

F. PROHIBITED SITE FEATURES

Off-street parking, off-street loading, merchandise display, or outdoor storage shall not take place within a required streetscape buffer.

6.6.12. PLANTING FLEXIBILITY

A. CREDIT FOR EXISTING VEGETATION

01. In order to encourage the preservation of established, healthy vegetation, credit shall be given towards the landscaping requirements in this section for preservation of existing trees that are pre-existing within the boundaries of required landscaping areas and that meet the standards in this Ordinance at a rate of two times the amount of existing, healthy trees proposed to be retained during and after development. The Planning Director may require certification of a tree's health by a certified arborist or landscape architect at the applicant's expense.
02. Vegetation to be credited towards these requirements shall be protected in accordance with Section <>, Tree Protection During Construction, before and during development of the site and maintained thereafter in a healthy growing condition.
03. In no instance shall credit be given for the retention of existing vegetation that is identified as an invasive species by the North Carolina Agricultural Extension, the North Carolina Forest Service, the North Carolina Invasive Plant Council, or other recognized source.

B. REVISIONS TO APPROVED LANDSCAPE PLANS

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Planning Director if:

01. There is no reduction in the quantity of plant material;
02. There is no significant change in size or location of plant materials; and
03. The new plants are of the same general category (i.e., canopy tree, understory tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread, etc.) as the materials being replaced.

C. ALTERNATIVE PLANS

An alternate plan for landscaping that allows modifications to the requirements of this section may be approved by the Planning Director in accordance with Section <>, Alternative Plan.

D. BERMS

Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of required landscaping when configured in accordance with the following:

01. Berms shall have a minimum height of three feet, a minimum crown width of at least three feet, and a slope of no greater than 3:1;
02. Berms shall be no taller than twelve feet above the toe of the berm;
03. Berms shall be stabilized with vegetation and ground cover;
04. A berm may not damage the roots of existing healthy vegetation being preserved for credit towards the landscaping requirements in this Ordinance. Suffocation of existing roots by deposition of fill in excess of 12 inches shall be considered damage to existing tree roots;
05. Berms shall not result in the pooling of stormwater on adjacent lots; and
06. A berm shall not interfere with a required sight distance triangle (see Section <>, Sight Distance Triangles).

E. FENCES AND WALLS

01. Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas, may reduce the minimum and average perimeter buffer width requirement in accordance with Table <>, Perimeter Buffer Configuration.

02. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.

03. Required trees may be planted either in front of or behind the fence or wall.

F. PLANTERS

01. Planters, if provided, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the Planning Director.

02. Planters shall maintain a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.

03. The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

6.6.13. TIME OF INSTALLATION

A. A Certificate of Compliance shall not be issued, until all required landscaping and screening have been placed in accordance with the approved Site Plan, Subdivision Plat, or other approval, and requirements of this section.

B. A temporary Certificate of Compliance may be issued for a period of up to 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon approval of the request to the Planning Director.

C. In cases where a temporary Certificate of Compliance is requested, the applicant shall furnish the following:

01. A signed contract for the installation of all required landscape materials; and

02. A performance guarantee for the amount of the contract configured in accordance with the standards in Section <>, Performance Guarantee.

6.6.14. REQUIRED MAINTENANCE

A. RESPONSIBILITY

01. The responsibility for maintenance of required landscaping areas shall remain with the landowner, their successors, heirs, assignees, or any consenting grantee.

02. Maintenance is required in order to ensure the proper functioning of landscaping and screening material.

03. Failure to adequately maintain required landscaping or screening material is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, Violations.

B. MAINTENANCE

01. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to: watering, mulching, fertilizing, pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

02. Necessary pruning and trimming shall be accomplished in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not include:

a. The topping of trees;

b. Removal of 30 percent or more of the crown material in one calendar year;

c. Removal of the central leader; or

d. Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.

03. Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any dead, diseased, or removed vegetation when such replacement plantings are necessary to meet the standards or this Ordinance or maintain the screening objective of the landscaping material.

04. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.

05. Where other uses, including pedestrian and bicycle accessways, are allowed within a required landscaping area, these uses shall be maintained to provide for their safe use.

06. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system may be required.

6.6.15. SITE INSPECTION

A. POST CONSTRUCTION INSPECTION

01. A Certificate of Compliance for any development shall not be issued unless the landscaping and screening required under this section is installed in accordance with these standards and the development approval.

02. No person shall refuse entry or access to any staff or authorized representative of the Town who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

B. FOLLOW-UP INSPECTION

The Planning Director, or a designee, may inspect a site one year after the issuance of a permanent Certificate of Occupancy in order to ensure compliance with this Ordinance.

C. PERIODIC INSPECTION

01. The Planning Director, or a designee, may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a site does not comply with the development approval, a notice of violation shall be prepared in accordance with Section <>, Written Notice of Violation.

02. The Town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

6.6.16. VIOLATION AND REPLACEMENT OF REQUIRED VEGETATION

A. DAMAGE OR REMOVAL OF VEGETATION IS A VIOLATION

The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance subject to the remedies described in Chapter 7, Violations.

B. REPLACEMENT REQUIRED

01. Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.

02. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.

03. Replacement trees shall be planted within 90 days of removal of required vegetation.

C. REVEGETATION PLAN REQUIRED

In cases where required landscaping or existing vegetation required to be preserved is damaged, disturbed, or removed, a revegetation plan shall be submitted for review and approval by the Planning Director, in accordance with the following standards:

01. Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees having a caliper of at least three inches at time of planting and a cumulative caliper equal to or greater than the original tree.

02. Trees damaged or destroyed less than eight inches in diameter shall be replaced with one or more trees meeting the minimum sizes in Section <>, Plant Material Specifications.

03. Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

D. LOCATION OF REPLACEMENT TREES AND VEGETATION

01. Replanting shall be located within the vicinity of the vegetation to be replaced.
02. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Planning Director.

E. EXCESSIVE PRUNING OR TRIMMING

Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming shall be a violation of this Ordinance, and shall require replacement of damaged vegetation in accordance with Section <>, Replacement Required.

F. FAILURE TO MAINTAIN

Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with Chapter 7, Violations.

§ 6.7 OPEN SPACE SET-ASIDE AND PARKLAND DEDICATION[24]

6.7.1. OPEN SPACE SET ASIDE

A. HOW TO USE THESE STANDARDS

01. Developments subject to these open space set-aside standards (see Section <>, Applicability) shall provide the minimum amount of open space set-aside required for the zoning district where located as identified in Chapter 3, Districts.

02. The physical amount of open space to be set aside within a particular development is a percentage of total development size. These percentage requirements are found in the dimensional standards tables for the zoning districts in Chapter 3, Districts. There is no limitation on the provision of additional open space set-aside beyond the minimum specified in Chapter 3, Districts.

03. Once the minimum amount of open space set-aside to be provided is determined, the type of open space set-aside, if specified, should also be determined in accordance with Section <> Open Space Type.

04. Applicants should consult Section <>, Open Space Set-Aside Configuration, in order to determine any applicable design requirements or prohibited features.

B. PURPOSE AND INTENT

The purpose of this section is to help ensure the provision and maintenance of open space resources that encourage recreation and the gathering of Town residents and visitors. These standards are further intended to:

01. Establish the standards under which residential, mixed-use, and non-residential development shall set aside a portion of the development area as open space;

02. Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides, based on the zoning district designation; and

03. Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

C. APPLICABILITY

01. GENERALLY

a. Unless exempted in accordance with Section <>, Exemptions, the standards in this section shall apply to all new development proposed after (*insert the effective date of this Ordinance*).

b. Compliance with all the applicable standards in this section shall be also be required in the following cases:

i. An existing principal use established before (*insert the effective date of this Ordinance*) is changed to a different principal use that is subject to these standards;

ii. A development established prior to (*insert the effective date of this Ordinance*) is changed in ways that increase the amount of impervious surfaces on the site; and

iii. A principal use or structure established before (*insert the effective date of this Ordinance*) is increased in floor area or building footprint.

02. CONSERVATION SUBDIVISIONS

Open space set-asides associated with a conservation subdivision shall be subject to the standards in Section <>, Conservation Subdivision, in addition to these standards. In the event of a conflict, the standards in Section <>, Conservation Subdivision, shall control.

03. EXEMPTIONS

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

a. Development of an individual single-family dwelling (including manufactured homes) on its own lot platted prior to (*insert the effective date of this Ordinance*);

[24] These are new open space set-aside and parkland dedication standards. The current provisions require residential cluster subdivisions to provide open space while these standards require all forms of development (including non-residential) to provide open space. These standards also require parkland dedication of payment of fee-in-lieu for the Town's use to acquire recreation land.

b. Single-family detached residential subdivisions comprised solely of seven or fewer lots where all lots are intended for single-family detached residential dwellings;

c. Development consisting of seven or fewer duplex, townhouse, triplex, or quadplex dwelling units; and

d. Development located within the CON district.

D. MINIMUM OPEN SPACE SET-ASIDE REQUIREMENTS

01. AMOUNT

a. The minimum required amount of open-space set-aside, as a percentage of a development's size, shall be in accordance with the dimensional standards for the type of use in the zoning district where the development is located. Chapter 3, Districts, sets out the open space set-aside requirements for lots in each zoning district.

b. Nothing shall limit the provision of more open space set-aside, provided the minimum requirements in this Ordinance are met.

02. TYPE

Table<>, Open Space Type, identifies the form(s) of open space set-aside required by this Ordinance.

TABLE <>: OPEN SPACE SET-ASIDE TYPE

ZONING DISTRICT WHERE LOCATED [1]	TYPE OF DEVELOPMENT PROPOSED	TYPE OF OPEN SPACE SET-ASIDE REQUIRED [2]
GLC, CCZ, IND, ICZ	All Allowable Use Types	Passive Open Space [3]
MXR, TNC, MCZ	Residential Development or Mixed-Use Development that Includes 8 or More Residential Units	At least one half of the total required open space shall be either Active Open Space or Gathering Space [4]
	Residential Development of 7 or Fewer Single-Family Detached Lots, or 7 or fewer Duplex, Townhouse, Triplex, or Quadplex Units	N/A
	All Other Development	Gathering Space [4]
LDR, RCZ	Residential Development or Mixed-Use Development that Includes 8 or More Residential Units	No more than one-third of the total required open space may be Active Open Space [4]
	Residential Development of 7 or fewer Single-Family Detached Lots, or 7 or fewer Duplex, Townhouse, Triplex, or Quadplex Units	N/A
	All Other Development	Passive Open Space
PRV, RUR, RLD,	Residential Development that Includes 8 or More Residential Units	No more than one-quarter (25%) of the total required open space may be Active Open Space [5]
	Residential Development of 7 or Fewer Residential Units	N/A
	All Other Development	Passive Open Space
NOTES:	[1] The type of open space set-aside provided may deviate from these requirements as part of a Conditional Rezoning. [2] See Section <> Open Space Set-Aside Configuration, on allowable forms of development and configuration. [3] The Planning Director may require some or all of the required open space set-aside as active open space or gathering space. [4] The Planning Director may require the remainder of provided open space set-aside to be configured as passive open space. [5] The Planning Director may require some or all of the remainder of provided open space set-aside to be configured as passive open space.	

E. OPEN SPACE SET ASIDE CONFIGURATION

Open space set-asides shall be configured in accordance with the following standards.

01. PASSIVE OPEN SPACE SET-ASIDE

Passive open space set-asides are intended to provide land area that is undeveloped, or that is developed with low-intensity recreational features (such as those for walking or sitting), landscaping, replacement trees, or stormwater control measures that are configured as a site amenity (see Figure <>, Types of Open Space).

a. ALLOWABLE FEATURES

The land area occupied by any of the following types of features is credited towards required passive open space set-aside:Walking, bicycling, and equestrian trails outside of greenways;

ii. Boardwalks outside of greenways;

iii. Gardens;

iv. Benches and seating areas;

v. Tables, grills, and related picnicking facilities;

vi. Lawn areas and community greens;

vii. Lakes, ponds, wetlands, swamps, canals, and streams;

viii. Areas occupied by trees and undisturbed vegetation;

ix. Piers and docks for fishing or viewing wildlife;

x. Easements for access, drainage, maintenance, or public utilities; and

xi. Undisturbed land subject to a deed restriction or conservation easement.

b. SITE FEATURES CREDITED TOWARDS PASSIVE OPEN SPACE SET-ASIDE REQUIREMENTS

i. The following site features shall be credited towards passive open space set-aside requirements:

1. Lands dedicated for public parks or greenways, when not already credited towards active open space set-asides or gathering areas;
2. Required landscaping areas;
3. Ridgelines and hilltops over 2,250 feet above mean sea level;
4. Permanent tree save areas;
5. U.S. Army Corps of Engineers designated 404 wetlands;
6. Riparian buffer areas; and
7. Natural heritage areas.

c. PREFERRED FEATURES

Wherever present and possible, access to and along a river, creek, or stream shoreline is the preferred form of passive open space. Provision of these features, when made available for access by the general public, shall also allow these features to be credited towards the requirements in Section <>, Parkland Dedication.

d. CONFIGURATION

In no instance shall passive open space set-asides be retained, located, or configured in ways that reduce required street setbacks between buildings and the edge of a street right-of-way. Passive open space set aside areas that border a street shall maintain a minimum width at least as deep as the applicable street setback in the district where located.

02. ACTIVE OPEN SPACE SET-ASIDE

Active open space set-asides provide for active recreational needs of the residents or visitors they serve. Active features include fields and courts as well as built structures (see Figure <>, Types of Open Space). Active open space set-asides shall meet the following standards:

a. CONFIGURATION

i. Lands set aside as active open space set-aside shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.

ii. Active open space set-aside areas shall be located so as to be readily accessible and usable by residents and users of the development.

iii. Where possible, a portion of the open space set-aside should provide focal points for the development.

iv. Where the development site is adjacent to existing or planned trails, parks, or other public open area land, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area.

v. In cases where active open space is required and there is no opportunity to connect with and extend existing open space set-aside resources on an adjacent lot or site, the active recreation open space set-aside shall be located central to the development it serves and away from the development's periphery.

b. ALLOWABLE FEATURES

The following types of features are allowable in and credited towards active open space set-asides:Lands dedicated for public parks or greenways;

ii. Swimming pools, splash pads, and areas devoted to water play for children;

iii. Athletic fields and courts;

iv. Boat launches and swimming platforms;

v. Club houses and shelters;

vi. Playgrounds and play structures for children;

vii. Obstacle courses and exercise trails; and

viii. Easements for access, drainage, maintenance, or public utilities.

03. GATHERING SPACES

Gathering spaces are open space set-asides that provide formal or informal gathering areas for people or locations for vegetation or stormwater uptake within core portions of the Town's planning jurisdiction. Gathering spaces can include outdoor dining areas, outdoor seating areas, performance spaces, building atriums with plants and seating, or green roofs (see Figure <>, Types of Open Space).

a. ALLOWABLE FEATURES

The following types of features are allowable in gathering spaces:

i. Lands dedicated for public parks or greenways;

ii. Plazas and courtyards;

iii. Public art installations;

iv. Roof gardens;

v. Indoor atriums with plantings and seating that are open to the general public;

vi. Outdoor dining areas;

vii. Fountains; and

viii. Areas devoted to public gathering.

FIGURE <>: TYPES OF OPEN SPACE

04. NON-CREDITABLE FEATURES

The following areas shall not be included in or credited towards any open space set-aside requirements:

a. Private yards not subject to a deed restriction or conservation easement;

b. Public or private street rights-of-way;

c. Parking areas and driveways for dwellings or other uses;

d. Land covered by structures not designated for active recreational uses;

e. On-site wastewater treatment facilities, including septic tank drain fields;

f. Stormwater control measures not configured as a site amenity; and

g. Designated outdoor storage areas.

F. MAINTENANCE

01. The owner of the land shall be responsible for maintenance of all open space set-aside areas including land, vegetation, private infrastructure, greenways, and other features, in accordance with this Ordinance and any conditions of approval associated with the development.

02. Failure to maintain open space set-aside areas is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, Violations.

G. OWNERSHIP OF OPEN SPACE SET-ASIDES

Open space set-asides are intended to remain under private ownership while being available for use to residents and visitors in the development where located. Ownership of open space set-asides shall remain with the owner of the land, except in the following circumstances.

01. OWNERS' ASSOCIATION

All open space set-aside areas may be owned jointly or in common by the owners of the development through a recognized homeowners' or property owners' association, which shall be established in accordance with Section <>, Error! Reference source not found..

02. NONPROFIT ORGANIZATION

The landowners may decide to convey an open space set-aside to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the Town is provided adequate assurance the set-aside will be properly managed and maintained.

03. DEDICATED TO TOWN OR OTHER PUBLIC AGENCY

In some cases, certain lands designated as open space set-asides, such as wildlife habitat or greenways, may be dedicated to the Town or other public agency during the development review process. The Town Council shall determine which lands and under what conditions open space set-asides may be dedicated to the Town or other public agency.

6.7.2. PARKLAND DEDICATION

Subdivisions of land for eight or more single-family residential lots (including detached or townhouse units) shall be required to dedicate a portion of the land, or pay a fee-in-lieu thereof, for public parkland, in accordance with the standards of this section.

DEDICATION AMOUNT

01. Single-family residential subdivisions of eight or more lots shall dedicate 1,244 square feet of land per residential lot or principal dwelling unit to the Town for its use in developing public parkland.No credit towards required parkland dedication is given for lands mandated for preservation by State or federal requirements.

03. No more than 25 percent of the total dedication requirement may be met through dedication of water or wetland areas.

B. DEDICATION OR PAYMENT OF FEE-IN-LIEU PROCEDURE

01. The developer or landowner, as appropriate, shall identify land proposed for dedication or propose payment of a fee-in-lieu as part of the application for approval in accordance with Section <>, Fee-in-Lieu.

02. The Town staff shall review the proposed application and determine if it complies with the standards in this section. The decision to accept dedication or payment of a fee-in-lieu is up to the sole discretion of the review authority deciding the associated development application.

03. In the event a request for payment of fee-in-lieu is made, the request shall be accompanied by the following:

a. The assessed value of the land indicated for dedication and how the assessed value amount was determined; and

b. The rationale or basis for the request for payment of a fee-in-lieu.

04. The fee-in-lieu shall be calculated based upon the total acreage of land required for dedication.

05. The land's assessed value (as determined by the Henderson County Tax Assessor) shall be used to arrive at the required fee-in-lieu amount.

06. Use of funds collected in accordance with this section shall only take place in the general vicinity of where funds are collected or in central community location, and may only be used for the purchase of in-kind lands or the same type of infrastructure in accordance with all applicable State and federal law.

07. The Planning Director shall maintain records of the amounts collected, the timing, and the location, which shall be used by the Town as part of its park and open space program.

08. Land shall be dedicated prior to recording the first final plat for the subdivision, or the payment-in-lieu shall be paid prior to recording the first final plat for the subdivision for which the payment-in-lieu is paid.

C. NATURE OF LAND TO BE DEDICATED

All lands proposed for dedication as park areas shall meet the following standards:

01. UNITY

The dedicated land shall be a single parcel of land, whether the development is developed in phases or sections, except where it is determined by the Town that multiple parcels would better serve Town residents and visitors.

02. USABILITY

a. Public parkland must be without significant topographic elevation changes, well-drained, usable land for a park, as determined by the Planning Director.

b. In cases where dedication includes an area of water, public access to all portions of a water feature shall be provided and maintained, regardless of the water feature's size.

c. The land must not be a former site of or contain any remains of hazardous materials.

03. SHAPE

The dedicated land shall be of a shape that supports gathering and recreation activities.

04. LOCATION

a. The dedicated parkland shall be located so it can reasonably serve the park needs of the residents of the development and immediate area and/or the Town as a whole.

b. The Town may require that the land dedicated be located on the periphery of the development in order to allow enlargement by combining the recreation and park area with adjacent development or park facilities, existing or planned.

05. ACCESS

a. All dwelling units in the development and residents in the immediate area shall have access to and from the parkland provided by means of streets and public walkways or trails.

b. Rights-of-way for this access shall be shown on the Preliminary and Final Plats.

c. All dedicated lands shall have access by way of a street. Such access can be provided when the dedicated land is adjacent to existing or proposed public parkland with street access.

06. GREENWAYS

In cases where a proposed subdivision is located or configured in ways that would assist the Town in developing its greenway or trail network, dedication of greenway land will be credited towards public parkland dedication.

§ 6.8 OWNERS' ASSOCIATIONS[25]

The purpose of this section is to set out the requirements for establishment of a homeowners' or property owners' association (hereinafter "owners' association") that shall be responsible for the long-term maintenance of common areas, common features, and private infrastructure in a subdivision. This section also sets out the requirements associated with transfer of subdivision control and maintenance responsibility from the subdivider to the association.

6.8.1. APPLICABILITY

A. The standards in this section shall apply to developments with lands held under common ownership (like open space set-aside), or with shared responsibility for common infrastructure including, but not limited to:

01. Stormwater control measures;

02. Private potable water systems;

03. Private sewage system features (such as pump stations serving only the development where located);

04. Cluster mailbox units;

05. Commonly-held streets and off-street parking facilities; and

06. Open space set-asides.

B. In no instance shall any common area be further subdivided, developed, or conveyed by the owners' association, except in accordance with the provisions of this Ordinance.

6.8.2. CREATION REQUIRED

A. An association shall be established in areas that have private common open space or shared private infrastructure. Associations are required to accept ownership and maintenance responsibility of all open space set-aside(s), shared infrastructure, or common areas within a development.

B. Associations are also required in order to fulfill the requirements of Chapter 47C (the "Condominium Act") of the North Carolina General Statutes, or the requirements of Chapter 47F (the "Planned Community Act") of the North Carolina General Statutes.

C. The association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development, though maintenance responsibility shall only transfer from the developer to the association in accordance with Section <>, Transfer of Maintenance Responsibility.

6.8.3. MEMBERSHIP REQUIREMENTS

A. Following establishment of the association by the subdivider, membership in the association shall be automatic and mandatory for all purchasers of land within the subdivision and their successors in title.

B. All members of an association shall be responsible for contributions to the association's reserve fund to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure.

6.8.4. PROCEDURE FOR ESTABLISHMENT

A. Documents for the creation of the association shall be submitted to the Town for review and approval prior to approval of the Final Plat (see Section <>, Final Plat). Documentation shall include, but not be limited to the information in Section <>, Required Documentation.

B. The association shall be established by the subdivider prior to the sale of the first lot in the subdivision.

C. The association documents shall establish that the subdivider shall maintain the common area, common facilities, and infrastructure at least until 51 percent of the lots are sold.

D. Responsibility for maintaining the subdivision's common areas, common facilities, and private infrastructure shall be transferred in accordance with the standards in Section <>, Transfer of Maintenance Responsibility.

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[25] These are new standards that address the responsibility for ownership and maintenance of common features like open space, stormwater, private streets, and so forth. These standards also set out the formation rules and provisions addressing the transfer of maintenance responsibility from the developer to the owners' association.

E. Nothing shall prevent the subdivider from retaining maintenance responsibility after more than 51 percent of the lots are sold.

6.8.5. RESPONSIBILITIES

A. Upon transfer of maintenance responsibility, the association shall be responsible for:

01. Liability insurance and payment of premiums for liability insurance and local taxes;

02. Maintenance of all common elements including, but not limited to, stormwater control measures in accordance with Section <>, Maintenance, private utilities, private streets, private sidewalks and trails, private streetlights, and private common recreation facilities shown on the preliminary and final plats;

03. Maintenance of public streets until such time as the Town or NCDOT agrees to accept the responsibility for street maintenance;

04. Maintenance of an escrow account intended for the maintenance and repair of community facilities;

05. Payment of system development fees for public and private improvements made to or for the benefit of the common elements; and

06. Payment of assessments for public and private capital improvements made to or for the benefit of the common area located within the development.

B. The owners' association shall grant easements over the common areas for access, ingress, and egress from and to public and private streets and walkways, and easements for enjoyment of the common area and for parking areas shall be granted to each owner of any lot or unit within the development, unless expressly stated otherwise and classified as "limited common areas and facilities" with the declaration.

C. Common walls between any units shall be party walls, and provisions for the maintenance thereof, including restoration in the event of destruction or damage, shall be established within the covenants.

D. In the event of default by the owners' association in the payment to the Town of any ad valorem taxes levied against the common area or assessments for public improvements to the common area, for a period of six months or more, then each owner of a lot or unit in the development shall become personally obligated to pay to the Henderson County Tax Assessor and the Mills River Tax Collector a proportionate share of such taxes or assessments. If such sum is not paid by the owner within 30 days following receipt of notice of the amount due, then such sum shall become a continuing lien on the lot or unit of the then owner(s), the owner(s)' heirs, devisees, personal representatives and assigns, and the Henderson County Tax Assessor or the Mills River Tax Collector may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

6.8.6. REQUIRED DOCUMENTATION

A. The association documents submitted to the Town for review shall include, but not be limited to, the following:

01. A declaration of all restrictive covenants;

02. A declaration of all deed restrictions;

03. A declaration that the association is responsible for liability insurance and all applicable taxes;

04. A declaration of common ownership and maintenance responsibilities of all on-site improvements not dedicated to a local or State agency, including but not limited to drainage systems, wastewater systems, open space set-aside areas, recreational facilities, and private infrastructure;

05. A statement that all common areas shall not be further subdivided, developed, or conveyed by the owners' association, except where approved under the provisions of this Ordinance;

06. A description of the structural organization and operating procedures of the association;

07. Association by-laws;

08. A legal description and map depicting of all open space set-asides and other lands owned in common;

09. A description of areas designated as limited common areas and facilities, where access to or through such areas by members of the associated is limited, and the reasons for such limitations;

10. Provisions establishing the legal authority of the association to maintain control over all common areas, common features, and private infrastructure in the subdivision, following transfer of control by the subdivider;

11. Provisions authorizing the association to compel contributions from owners in the development to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure;
12. Provisions authorizing the association to increase the amount of mandatory fees or assessments, when necessary, for the continued maintenance of common areas, common features, or private infrastructure;
13. Provisions authorizing the association to convert any member's unpaid assessments into a lien on real property; and
14. Evidence related to the establishment of a reserve fund under the sole control of the association to support the continued maintenance and upkeep of common areas, common features, and private infrastructure.

B. Following review of the required documentation by the Town, the subdivider shall record all required documentation with the Henderson County Register of Deeds, as appropriate.

6.8.7. TRANSFER OF MAINTENANCE RESPONSIBILITY

A. The subdivider shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association in accordance with the standards in this subsection.

B. Maintenance responsibility shall not be transferred from the subdivider to the association until all of the following occur:

01. The subdivider commissions a report prepared by a professional engineer licensed in North Carolina indicating that all common areas, common features, and infrastructure elements comply with the minimum standards in this Ordinance and other applicable laws. The report shall also include verification of the reserve fund balance in accordance with the standards in this section; and
02. Town staff reviews and approves the report prepared by the professional engineer; and
03. A reserve fund dedicated to the continued maintenance and upkeep of common areas, common features, and private infrastructure is established with a banking institution acceptable to the Town in the name of the association that contains a minimum balance that includes the following:
    - **a.** Except for sidewalks, ten percent of the construction costs of common features and private infrastructure;
    - **b.** Liability insurance and taxes (if applicable) for two years; and
    - **c.** Facilities, stormwater, and landscaping maintenance costs for two years.
04. In the event the association has not collected sufficient assessment funds from the lot owners in the subdivision to meet the minimum balance requirements of the reserve fund, the subdivider shall be responsible for the difference needed to meet the minimum balance requirements.

6.8.8. FAILURE TO MAINTAIN IS A VIOLATION

Failure to maintain common areas, common features, or infrastructure is a violation of this Ordinance and is subject to the penalties and remedies in Chapter 7, Violations.

§ 6.9 PARKING AND LOADING[26]

6.9.1. PURPOSE AND INTENT

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance. The standards are further intended to:

A. Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;

B. Allow for flexibility to accommodate alternative solutions to off-street parking and loading needs, where such flexibility is consistent with the Town's adopted policy guidance;

C. Avoid excessive impervious surface areas and the resulting problems associated with stormwater runoff and heat islands; and

D. Protect compatibility between adjacent uses of land.

6.9.2. APPLICABILITY

The standards in this section shall apply to all development in the Town's jurisdiction, unless exempted in accordance with Section <>, Exemptions.

A. GENERALLY

These standards shall apply when a new building is constructed, an new open-air use of land is established, or a new principal or secondary use is established.

B. EXISTING DEVELOPMENT

Compliance with all the applicable standards in this section shall be also be required in the following cases:

01. An existing principal use established before (*insert the effective date of this Ordinance*) is changed to a different principal use that is subject to these standards;

02. A development established prior to (*insert the effective date of this Ordinance*) is changed in ways that increase the amount of impervious surfaces on the site; and

03. A principal use or structure established before (*insert the effective date of this Ordinance*) is increased in floor area or building footprint.

C. ADDITION OF NEW PARKING SPACES

01. New off-street parking spaces added to a development, lot, or site after (*insert the effective date of this Ordinance*) shall require the entire site to reach full compliance with the standards in this section.

02. Driveways, aisles, or vehicular maneuvering areas serving new off-street parking spaces or connecting new off-street parking spaces to the existing parking spaces established prior to (*insert the effective date of this Ordinance*), shall also comply with the requirements in this section. Nothing shall preclude the use of an Administrative Adjustment or Alternative Plan as needed to ensure continuity and practical connection between different parking areas.

6.9.3. EXEMPTIONS

The following forms of development are exempt from the requirements of this section:

A. Lawfully-established lots of record existing prior to (*insert the effective date of this Ordinance*), that are 50 feet wide or less, contain a single-family detached residential structure, and are not served by an alley; and

[26] This section carries forward, builds on and replaces the standards in Sections 154.106 and 154.107 in the current Zoning Ordinance. These standards provide additional detail about parking lot configuration, provide a parking standard for each listed principal use, include new bicycle and stacking space standards, and establish loading standards that only apply in cases where an applicant seeks to include loading facilities.

B. Re-striping or re-surfacing an existing parking lot which does not increase the total number of off-street parking spaces or increase the amount of impervious surface.

6.9.4. OFF-STREET PARKING REQUIREMENTS

A. PARKING PLAN REQUIRED

01. Every application for a Site Plan or Zoning Compliance Permit shall include a parking plan or plot plan drawn to scale and fully-dimensioned as necessary in order to demonstrate compliance with the standards in this section.

02. Concept Plans associated with a Conditional Rezoning or Special Use Permit shall include conceptual information about the general location of off-street parking, access points, and the number of anticipated spaces, but these documents do not need to include a parking plan.

B. MINIMUM OFF-STREET PARKING SPACES REQUIRED

01. The minimum number of off-street parking spaces required for development shall be in accordance with Table <>, Table of Minimum Off-Street Parking Requirements.

02. Off-street parking shall be provided to meet the parking demand without the use of streets, driveways, and garages, except as specifically allowed by this section.

03. Some uses may also be required to provide vehicle stacking spaces in accordance with Section <>, Stacking Spaces.

04. Some uses may also be required to provide bicycle parking spaces in accordance with Section <>, Bicycle Spaces.

C. OFF-STREET PARKING SPACE MAXIMUM

01. Where identified in Table <>, Table of Minimum Off-Street Parking Requirements, uses subject to an off-street parking maximum shall comply with the applicable maximum provisions in the table.

02. Deviations from the maximum parking space standards may be requested in accordance with Section <>, Parking Flexibility.

D. USE TYPE NOT LISTED

01. For use types that do not correspond to the use types listed in Table <>, Table of Minimum Off-Street Parking Requirements, any one of the following actions may be taken as part of determining the applicable off-street parking requirements:

a. The applicant may provide a parking study for the use(s) prepared by a professional engineer licensed by the State of North Carolina;

b. The applicant may propose a text amendment to this UDO in accordance with Section <>, Text Amendment;

c. The applicant may request a formal determination of these off-street parking standards in accordance with Section <>, Determination, or

d. The Planning Director may determine the minimum parking space requirement based on a similar use in accordance with the standards of this Ordinance.

02. In cases where the applicant desires the Planning Director to make a determination, the application shall provide the following information:

a. The type of use(s);

b. Number of employees;

c. The availability of transit;

d. The occupancy of the building;

e. Anticipated square feet of sales, service, and office areas;

f. Number of off-street parking spaces proposed; and

g. Hours of operation.

E. DEVELOPMENTS WITH MULTIPLE USE TYPES OR LOTS

01. Development containing more than one principal use shall provide the minimum number of off-street parking spaces in an amount equal to the total required for all individual principal uses in the development, except as allowed by Section <>, Parking Flexibility.

02. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured to locate a portion of the required parking for one lot on another in the same development as allowed by Section <>, Parking Flexibility.

F. USE OF REQUIRED OFF-STREET PARKING SPACES

01. Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces in Table <>, Table of Minimum Off-Street Parking Requirements, and such vehicles shall be located outside required off-street parking spaces and any street right-of-way:

a. Vehicles for sale or lease;

b. Vehicles being stored, serviced, or repaired; or

c. Vehicles belonging to the use, such as company vehicles.

02. Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.

03. In no instance shall motor vehicle servicing or repair of a vehicle take place within a required off-street parking space except for washing and emergency service necessary to start or relocate the vehicle.

G. DRIVEWAYS USED TO MEET PARKING REQUIREMENTS

01. Driveways may be used to accommodate required off-street parking spaces only for the following uses:

a. Boarding houses;

b. Cemeteries;

c. Family care homes;

d. Group homes;

e. Live/work dwellings;

f. Manufactured dwellings;

g. Mobile homes;

h. Townhouse dwellings when located in developments of five or fewer dwellings (driveways may be located on land owned in common);

i. Single-family detached dwellings, including those in bungalow courts and pocket neighborhoods;

j. Secondary dwelling units;

k. Triplex/quadplex dwellings; and

l. Duplex dwellings.

02. Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by Table <>, Table of Minimum Off-Street Parking Requirements, and comply with the applicable standards in Section <>, Driveway Standards. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, access easements necessary for the circulation of vehicles, sidewalks, greenways, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

H. GARAGES USED TO MEET PARKING REQUIREMENTS

On-site garages may be credited towards the off-street parking requirements only in accordance with the following:

01. SINGLE-FAMILY DETACHED DWELLINGS

a. Except when configured as bungalow courts or pocket neighborhoods, single-family detached dwellings, whether occupied as a principal or secondary use, that include a single one-car garage shall not receive credit from this garage parking space towards meeting the required number of off-street parking spaces. Lots with single-family detached dwellings that include two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.

b. A one-car garage shall be credited towards off-street parking space requirements for a single-family detached dwelling when the dwelling is included as part of a bungalow court or pocket neighborhood.

02. TOWNHOUSE, DUPLEX, TRIPLEX, AND QUADPLEX DWELLINGS

a. A one-car garage integral or attached to a townhouse dwelling shall not receive credit towards off-street parking. Garages with two or more garage parking spaces, whether designated for individual units or as part of a shared garage structure, shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.

b. Garage parking spaces intended to serve three or more individual dwelling units and located within a single principal or secondary structure shall be credited towards the off-street parking spaces in this section.

03. STRUCTURED PARKING

Garage parking spaces located within structured parking and serving two or more separate residential dwellings or a non-residential use type shall be credited towards the off-street parking requirements in this section.

I. MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE

The following table sets out the minimum and applicable maximum off-street parking standards for development subject to these standards. Off-site and on-street parking may be used to satisfy some or all of these requirements if configured in accordance with Section <>, Parking Flexibility. Parking standards for listed secondary uses are found at the end of the table.

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
COMMERCIAL USES CLASSIFICATION	
Animal Boarding, Indoor and Outdoor	1 per every 200 sf [3]
Animal Boarding, Indoor Only	1 per every 200 sf
Animal Grooming	1 per every 200 sf
Animal Shelter	1 per every 200 sf used by public + 1 per every employee or volunteer on the largest shift
Bank, Credit Union, or Similar Use	1 per every 300 sf
Bar, Cocktail Lounge, or Private Club	1 per every 150 sf
Bed & Breakfast	1 per guest room plus minimum required for a single-family detached dwelling
Boat Sales and Rental	1 per employee on largest shift + 1 per every 300 sf of use area open to the public
Bottle Shop (with on premise consumption)	1 per every 4 seats [4]
Bulky Item Sales	1 per every 1,000 sf of customer or display area
Campground / Recreational Vehicle (RV) Park	1 per employee on the largest shift + 1 per camping space + 0.25 per every recreational vehicle space
Co-Working Space	1 per every 250 sf
Coffee Shop or Retail Bakery	1 per every 150 sf; May not exceed 125% of minimum
Computer Related Services	1 per every 600 sf
Convenience Store (with gasoline sales)	1 per every 200 sf
Day Spa (medical and non-medical)	1 per every 150 sf; May not exceed 125% of minimum
Dog Training Facility	1 per every 250 sf
Employee Housing	1 per every five persons of capacity
Equipment Sales, Rental, & Repair	1 per every 500 sf of indoor space + 1 per employee on the largest shift

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Event Venue, Indoor Only	1 per every 150 sf; May not exceed 125% of minimum
Event Venue, Indoor & Outdoor	1 per every 150 sf + 1 per every 1,500 sf of outdoor use area; May not exceed 125% of minimum
Farmer's Market	1 per every 400 sf of sales area open to the public
Financial Services	1 per every 250 sf
Fitness Center	1 per every 200 sf; May not exceed 125% of minimum
Flea Market	1 per every 200 sf; May not exceed 125% of minimum
Funeral-related Service	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in gathering area(s)
Gasoline Sales	1 per every 200 sf
Grocery Store	<30,000 sf: 1 per every 400 sf; May not exceed 125% of minimum
	30,000 sf – 55,000 sf: 1 per every 300 sf; May not exceed 125% of minimum
	>55,000 sf: 1 per every 200 sf; May not exceed 125% of minimum
Hair, Nails, and Skin-related Service	1 per every 200 sf
Hotel or Motel	5 + 1 per every rental unit
Indoor Recreation, Commercial	1 per every 200 sf; May not exceed 125% of minimum
Instructional Services	1 per every 200 sf
Laundry and Cleaning Services	1 per every 200 sf used by the public
Microbrewery, Micro Distillery, or Micro Winery	1 per employee on the largest shift + 1 per every 150 sf of customer area
Nightclub or Dance Hall	1 per every 150 sf; May not exceed 125% of minimum
Office, High Intensity	1 per every 200 sf; May not exceed 125% of minimum
Office, Low Intensity	1 per every 300 sf used by public + 1 per every 600 sf not used by the public
Outdoor Commercial Recreation	1 per every 1,000 sf of activity area (including building sf); May not exceed 125% of minimum
Outdoor Storage, Permanent	1+ 1 per employee on largest shift
Parking Related Use (Parking lot, Parking structure)	1 per employee on the largest shift
Packaging and Shipping Services	1 per every 200 sf of customer area + 1 per employee on the largest shift
Pawn Shop	1 per every 300 sf
Pharmacy (includes entire use area)	1 per every 200 sf
Plant Nursery (retail or wholesale)	1 per employee on the largest shift + 1 per every 250 sf of floor area
Printing Services	1 per every 300 sf
Repair Shop	1 per every 600 sf

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Restaurant, High Intensity	1 per every 3 seats + 1 per employee on the largest shift [4]; May not exceed 1 per every 150 sf
Restaurant, Low Intensity	1 per every 4 seats + 1 per employee on the largest shift [4]
Restaurant, Mobile-Related	1 per employee on the largest shift + per every 200 sf of customer area
Retail, High Intensity	1 per every 150 sf; May not exceed 125% of minimum
Retail, Large Format	70,000 sf – 200,000 sf: 1 per every 600 sf; May not exceed 125% of minimum
	>200,000 sf: 1 per every 800 sf; May not exceed 125% of minimum
Retail, Low Intensity	1 per every 200 sf
Retail, Micro	1 per every 600 sf
Self-Storage, Indoor Only	1 per every 5,000 sf
Self-Storage, Indoor and Outdoor	1 + 1 per employee on largest shift + 1 per every 5,000 sf of indoor area
Sexually-Oriented Business	1 per every 200 sf; May not exceed 125% of minimum
Tanning Salon	1 per every 200 sf
Tattoo and Body Piercing	1 per every 600 sf
Theatre, Indoor	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating; May not exceed 1 per every 150 sf
Theatre, Outdoor	2 + 1 per employee on largest shift
Tobacco, CBD, and Vape Shop	1 per every 200 sf; May not exceed 125% of minimum
Vehicle Parts and Accessory Sales	1 per every 200 sf
Vehicle Painting/Bodywork	2+ 1 per employee on largest shift + 1 per service bay
Vehicle Repair and Service (no painting/body work)	2 + 1 per each service bay
Vehicle Sales and Rental	1 per every 200 sf of floor area open to the public = 1 per employee on the largest shift
Vehicle Towing or Storage	1 per employee on the largest shift
Vehicle Washing or Detailing	1 + 1 per employee on largest shift
Veterinary Services	1 per every 200 sf
INDUSTRIAL USE CLASSIFICATION	
Contractor Services/Yard	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Cryptomining and Data Processing	1 per employee on the largest shift
Electrical, HVAC, or Plumbing Fabrication	2 per every 3 employees on the largest shift
Extractive Industry	1 + 1 per employee on the largest shift
Freight Terminal	2 per every 3 employees on the largest shift
Fuel Oil/Bottled Gas Distributor	1 per every 200 sf used by public + 1 per employee on the largest shift

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Gas and Petroleum Distribution	1 per employee on the largest shift
General Industrial Services	1 per employee on the largest shift + 1 per every 200 sf of office or customer area
Makerspace	1 per every 400 sf
Manufacturing, Heavy or Light	1 per employee on the largest shift + 1 per every 200 sf of office or customer area
Manufacturing, Micro	1 per every 600 sf
Metal Fabrication	2 per every 3 employees on the largest shift
Transfer Station	10 + 1 per employee on the largest shift
Recycling Center	1 per every 1,000 sf (min. of 2 spaces)
Research and Development	1 per every 300 sf of office area + 1 per every 500 sf of other floor area
Salvage or Junkyard	3 + 1 per employee on the largest shift
Solar Energy System, Level 2	None
Solar Energy System, Level 3	None
Utility, Major	1 per employee on the largest shift
Utility, Minor	None
Warehouse, Distribution	2 per every 3 employees on the largest shift
Warehouse, Storage Only	1 per employee on the largest shift
Wholesale Sales, Indoor Only	1 per every 900 sf; May not exceed 125% of minimum
Wholesale Sales, Indoor and Outdoor	1 per every 900 sf of indoor area + 1 per every 5,000 sf of outdoor area; May not exceed 125% of minimum
Wind Energy Conversion	None
INSTITUTIONAL USE CLASSIFICATION	
Adult Day Care	1 + 1 per every employee on the largest shift
Airstrip	5 + 1 per employee on the largest shift
Antenna Collocation, Major or Minor	None
Arboretum or Formal Garden	1 per employee on largest shift + 1 per 5,000 sf of garden area open to the public
Art Gallery, Library, Museum	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Athletic Field or Court	Greater of: 1 per every 1,000 sf of court or field area 1 per every 2 persons of seating capacity
Auditorium, Coliseum, Convention Center	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Broadcasting Tower	None
Bus Station	1 per every 200 sf [5]

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Cemetery or Mausoleum	1 per employee on the largest shift
Child Day Care	1 per employee + 1 per every 10 children of capacity
College or University	5 per every classroom + 1 per every office
Community Center	1 per every 300 sf
Dock or Pier, Public	1 per every 1,000 sf of dock or pier surface area
Fire/EMS/Police Station	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Fraternal Club or Lodge	1 per every 300 sf; May not exceed 1 per every 150 sf
Golf Course, Public or Private	1 per every 4 persons of design capacity
Government Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Government Maintenance, Storage, and Distribution	1 + 1 per employee on the largest shift
Governmental Training Facility, excluding firing range	1 per every 200 sf used by public + 1 per every 1,000 sf not used by the public
Hospital	1 per every 2 beds + 1 per every employee on the largest shift
Indoor Recreation, Public	1 per every 400 sf
Outdoor Recreation, Public	1 per every 1,000 sf of outdoor activity area
Outpatient Facility	1 per every 200 sf
Park or Playground, Public	1 per employee on the largest shift + 2 per acre
Park and Ride Facility	1 per every 200 sf [3]
Post Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Psychiatric Services	1 per every 3 patient beds
Rail Related Use	Passenger: 1 per every 400 sf [5]
	Freight: 1 per every employee on largest shift
Religious Institution	Greater of: 1 per every 4 seats or 1 per every 150 sf of floor area in main worship area; May not exceed 125% of minimum
Residential Treatment Facility	2 + 1 per every employee on the largest shift
School, Elementary or Middle	1 per every employee on the largest shift
School, High	5 per every classroom + 1 per office
School, Vocational	1 per every 3 students + 1 per classroom
Small Wireless Facility	None
Social Services Use	1 per every 200 sf
Taxi and Ground Transportation	1 + 1 per employee on the largest shift
Telecommunications Facility, Major	None

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Telecommunications Facility, Minor or Concealed	None
Urgent Care	1 per employee on the largest shift + 1 per every 300 sf
Youth Development Center	1 per employee on the largest shift + 1 per every 1,000 sf of indoor area
RESIDENTIAL USE CLASSIFICATION	
Boarding House	2 + 1 per each rental room
Bungalow Court	2 per dwelling unit + 0.25 guest spaces per dwelling unit
Congregate Care	1 per employee on largest shift + 0.25 per bed
Conservation Subdivision	1 per dwelling unit + 0.25 guest spaces per dwelling unit
Continuing Care Retirement Community	1.5 per each individual dwelling unit + 1 per employee on the largest shift + 1 per each 200 sf used by the public
Duplex	2 per dwelling unit
Family Care Home	2 + 1 per bedroom
Group Home	1 per employee on the largest shift + 1 per bedroom
Halfway House	2 per bedroom
Homeless Shelter	1 + 1 per employee on the largest shift
Live/Work Use	2 + 1 per every 500 sf of non-residential floor area
Manufactured Home	2 per dwelling unit
Manufactured Home Park	2 per each home site + 0.25 guest spaces per dwelling unit
Multi-Family Dwelling	1 per each one-bedroom unit + 1.25 per each unit with two or more bedrooms + 0.25 guest spaces per dwelling unit; May not exceed 125% of minimum
Pocket Neighborhood	1 per dwelling unit + 0.25 guest spaces per dwelling unit
Tiny Home, Permanent	1 per dwelling unit + 0.25 guest spaces per dwelling unit when located within a tiny home development
Townhouse	2 per dwelling unit + 0.25 guest spaces per dwelling unit; May not exceed 125% of minimum
Single-Family Detached Dwelling	2 per dwelling unit [6]
Triplex or Quadplex	2 per dwelling unit + 0.25 guest spaces per dwelling unit
Upper-Story Multi-family	1 per dwelling unit
SECONDARY USES [7]	
Accessory Dwelling Unit	1 per dwelling unit
Caretaker Dwelling	1 dedicated to dwelling use
Cemetery	2 per every 10 graves
Child Care, Incidental	1 per every 3 children of capacity

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED [#] = Notes at the end of the table	
USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Guard House, Shelter, or Gatehouse	1 per employee on the largest shift
Home Occupation	1 per employee
Produce Stand	1 + 1 per every 200 sf of stand area exceeding 600 sf
Retail Sales (as a secondary use)	1 per every 600 sf
NOTES:	[1] See Section <>, Dimensional Standards for Parking Spaces and Aisles, for details on how required parking spaces are computed. [2] "sf" means the total square feet of all principal buildings, the total square footage associated with all secondary buildings used for a use listed in this table, and outdoor use area when specified in this table. [3] Excludes bona fide farms, raw land in agricultural production, and other non-habitable agricultural buildings. [4] In the event seating associated with on-site consumption is permanently removed from the premises, the off-street parking standard shall convert to 2 + 1 per employee on the largest shift. [5] Excludes long-term parking for travelers. [6] Subdivisions in the LDR and MXR districts shall include an additional 0.25 off-street parking space for every dwelling unit for guests. These parking spaces shall be designated as guest parking, and centrally-located or dispersed throughout the subdivision. [7] These requirements are in addition to what is required for the principal use. The Planning Director may require a different parking standard for a listed or unlisted secondary use based on site conditions or based on the type of associated principal use.

6.9.5. STACKING SPACES

Uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service shall provide adequate stacking spaces on-site for the uses or buildings in accordance with Table <>: Stacking Spaces Required, and Figure <>, Stacking Space Configuration.

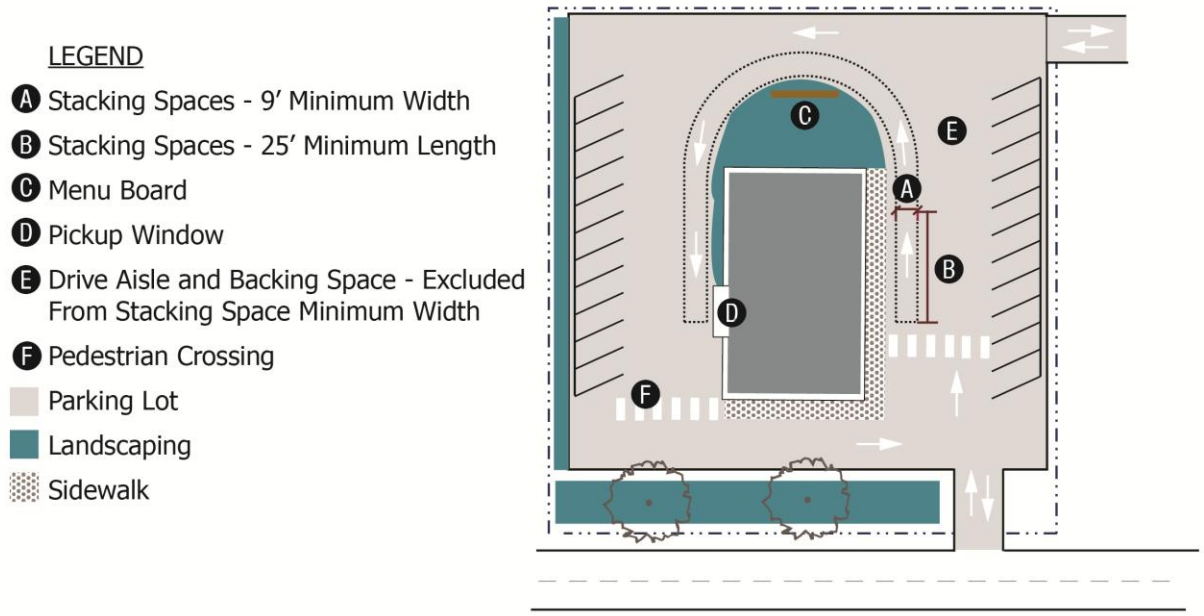
TABLE <>: STACKING SPACES REQUIRED		
USE OR ACTIVITY	MINIMUM NUMBER OF STACKING SPACES REQUIRED [1]	TERMINATION POINT OF MEASUREMENT FOR STACKING SPACES
Assisted living facility and nursing home	2 per main entrance	Building entrance adjacent to stacking spaces
Automated teller machine (drive through)	2	Teller machine
Automobile repair and servicing / Automotive painting or body shop	1 per bay	Bay entrance
Car wash or automobile detailing	1 per bay for manual car washes, otherwise 3	Bay/wash process entrance
Child day care center	2	Building entrance adjacent to stacking spaces
Convenience store with gasoline sales	2	Each end of the outermost gas pump

TABLE <>: STACKING SPACES REQUIRED

USE OR ACTIVITY	MINIMUM NUMBER OF STACKING SPACES REQUIRED [1]	TERMINATION POINT OF MEASUREMENT FOR STACKING SPACES
Coffee shop with drive through	4	[1]
Equipment and tool rental	2	Security gate
Financial services with drive through	3 per lane	Agent window
Funeral-related service	2	Building entrance adjacent to stacking spaces
Gasoline sales, whether as a principal or secondary use	2	Each end of the outermost gas pump
Heavy equipment sales, rental, and repair	2 [2]	Security gate
Hospital	4	Building entrance adjacent to stacking spaces
Hotel or motel	2	Building entrance adjacent to stacking spaces
Laundry and cleaning service with drive through	3	Agent window or door intended for service to vehicles
Outpatient treatment facility	4	Building entrance adjacent to stacking spaces
Pharmacy with drive through	3 per lane	Agent window
Post office	2	Each mailbox intended for access via automobile
Public convenience center/transfer station	5	Front edge of scale, first dumpster, or first service point
Restaurant with drive through	4	[1]
School (elementary, middle, or high)	In accordance with MSTA calculator	Building entrance adjacent to stacking spaces
Truck or freight terminal	1 [3]	Security gate
Truck stop	[4]	[4]
Valet parking as part of a principal or secondary use	3	At drop-off point

NOTES:
[1] Stacking spaces shall be measured from menu board, input devices, or other locations of interaction with service providers.
[2] Each stacking space shall be at least 50 feet long.
[3] The stacking space shall be of sufficient length to accommodate a trailer attached to a cab.
[4] Subject to the standards for gasoline sales if provided to individual passenger automobiles.

FIGURE <>: STACKING SPACE CONFIGURATION



6.9.6. PARKING LOT CONFIGURATION

Except for driveways credited towards these parking standards in Section <>, Driveways Used to Meet Parking Standards, or parking areas subject to an approved Alternative Plan (see Section <>, Parking Flexibility), all parking lots shall comply with the following standards:

A. GENERAL

01. All required off-street parking spaces shall be located on the same lot as the principal use they serve, except as allowed in Section <>, Parking Flexibility.

02. Required off-street parking shall be maintained for the duration of the principal use and shall not be reduced unless the principal use ceases or changes.

03. Except where allowed by this Ordinance, off-street parking spaces shall not be located in any required landscaping, sight distance triangle, drainage easement, or stormwater control measure area.

04. Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

B. CURBS AND WHEEL STOPS

Except when authorized within a driveway, all off-street parking spaces provided in accordance with Table <>, Table of Minimum Off-Street Parking Requirements, shall have curbs or wheel stops located so that no part of the parked vehicle extends onto or over a sidewalk, walkway of six feet in width or less, adjacent property, or landscape area, whether the vehicular use area is paved or unpaved.

C. DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

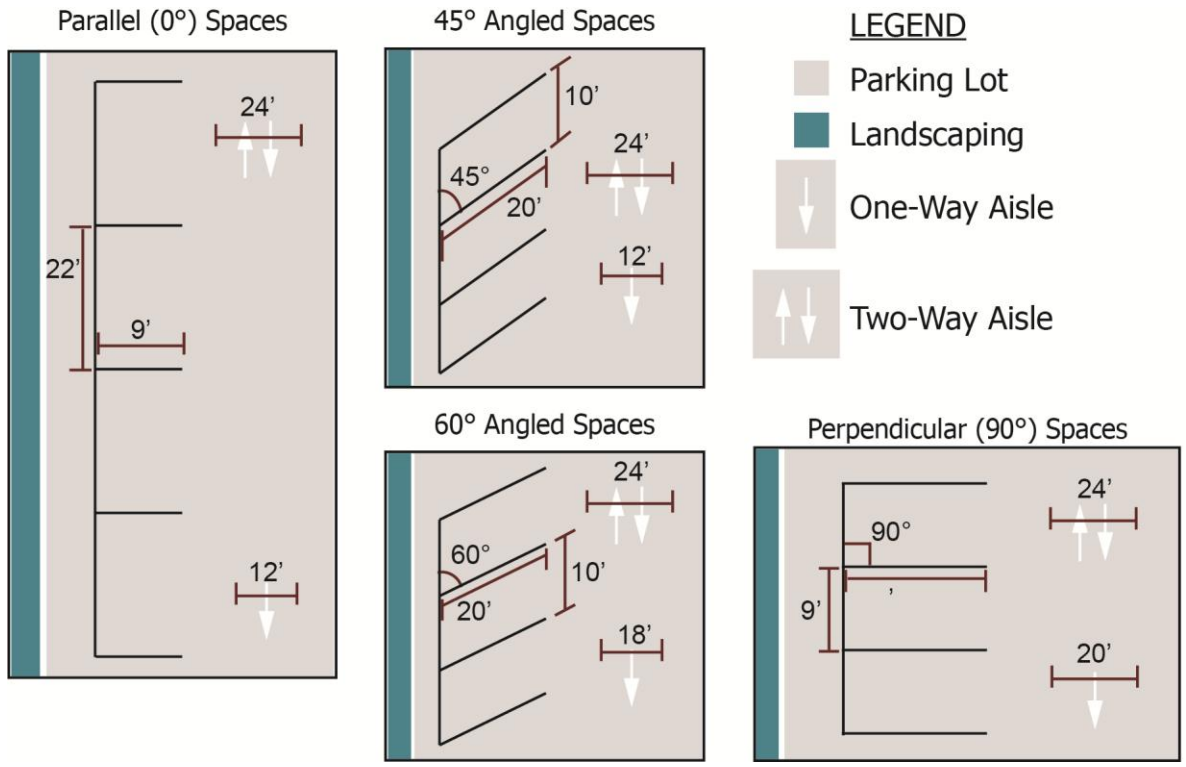
Off-street parking spaces and drive aisles serving them shall comply with the minimum dimensional standards established in Table <>, Dimensional Standards for Off-Street Parking Spaces, and Figure <>, Parking Space and Access Aisle Dimensions.

TABLE <>: DIMENSIONAL STANDARDS FOR OFF-STREET PARKING SPACES

TYPE OF PARKING SPACE [1]	MINIMUM WIDTH (FEET)	MINIMUM DEPTH (FEET)	MINIMUM AISLE WIDTH (FEET) [2]	
			ONE-WAY	TWO-WAY
Parallel (0°)	9	22	12	24
Angled (45°)	10	20	12	24
Angled (60°)	10	20	18	24
Perpendicular (90°)	9	18	20	24

NOTES:
[1] All off-street parking spaces shall remain unobstructed from grade level to a height of at least 8 feet above the parking space's grade level.
[2] Minimum aisle width shall be measured from edge-of-pavement to edge-of-pavement, and shall not include gutters or curbing.
[3] The Town may require one direction of travel to maintain a wider width than the other direction.

FIGURE <> PARKING SPACE AND ACCESS AISLE DIMENSIONS



D. EXTERIOR LIGHTING

01. Exterior lighting in parking lots shall be designed to provide at least the minimum amount of required illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.

02. Exterior lighting within a parking lot shall be configured to prevent glare, uplighting, light trespass, or illumination exceeding maximum allowable levels on adjacent land and shall comply with the standards of Section <>, Exterior Lighting, as appropriate.

E. GRADING AND DRAINAGE

01. The parking lot shall be graded, properly drained, stabilized, and maintained to minimize wear and erosion.

02. Parking lots shall not impound stormwater unless below-grade impoundment is required as an approved stormwater control measure. However, in no instance shall below-grade impoundment result in a fewer number of parking spaces than required by Table <>, Table of Minimum Off-Street Parking Requirements.

F. LANDSCAPING

Parking lot landscaping shall be provided in accordance with Section <>, Parking Lot Landscaping.

G. MAINTENANCE

The Town shall not be responsible for maintenance of drive aisles or other vehicular use area located outside a public right-of-way or on land not owned and operated by the Town of Mills River.

H. MARKINGS

01. All parking spaces and lanes in parking lots shall be clearly delineated with painted lines, curbs, or other treatment.

02. All pavement markings shall be maintained to be distinguishable. Failure to maintain required markings shall be a violation of this Ordinance.

I. MINIMUM PARKING LOT STEM LENGTH

All vehicular accessways serving off-street parking lots shall comply with the applicable standards in Section <>, Driveway Standards.

J. PARKING SPACE ACCESS

01. All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.

02. All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.

K. PEDESTRIAN WALKWAYS

Pedestrian walkways between the principal buildings on a development site and a sidewalk or other pedestrian way (like a greenway trail) shall be provided in accordance with Section <>, Access and Driveways.

L. SEPARATION FROM FIRE PROTECTION FACILITIES

01. No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.

02. Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

M. SURFACE MATERIALS

01. All off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights (see Figure <>, Parking Lot Surface Materials).

02. The use of pervious or semi-pervious materials may be approved as part of an Alternative Plan (see Section <>, Parking Flexibility), provided it is demonstrated that the materials will function in a similar fashion as required materials.

03. Gravel may be used as a surface material for off-street parking spaces following review and approval of a Site Plan in accordance with Section <>, Site Plan, subject to the following requirements:The parking lot includes a wheel stop for each designated parking space;

b. Each side of each individual parking stall is visibly demarcated;

c. The parking lot maintains positive drainage; and

d. The gravel is:

i. Aggregate base course (ABC) of a minimum depth of six inches; or

ii. Number 57 stone, laid over a geotextile fabric, to a minimum depth of four inches in accordance with NCGS§143-214.7; or

iii. An alternative type and depth configuration, as specified by the Planning Director.

04. Configuration of parking lots in accordance with low impact development practices is encouraged.

05. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Planning Director.

FIGURE <>, PARKING LOT SURFACE MATERIAL

N. PARKING LOT CONNECTIONS

01. PURPOSE AND INTENT

The intent of this section is to provide for parking lot connections between comparable commercial, mixed-use, townhouse, and multi-family land uses that front major streets so that vehicles leaving one lot may access the adjoining lot without having to re-enter the street system.

02. APPLICABILITY

The standards in this section shall apply to lots abutting major streets that contain any of the following uses:

a. Uses in the commercial uses classification in Section <>, Listing of Common Principal Uses;

b. Mixed-use development;

c. Townhouse development; and

d. Multi-family development.

03. EXEMPTIONS

Parking lot connections are not required when any of the following conditions are present:

a. Adjacent lots do not have common frontage along a major street;

b. The adjacent lot is nonconforming with respect to the minimum number of required off-street parking spaces;

c. Significant natural features exist in the only viable location for parking lot connections and construction of the connection would damage the significant natural features;

d. Vehicular safety factors exist or would be created including, but not limited to, unsafe turning movements or pedestrian conflicts;

e. Sufficient access already exists without need for additional parking lot connections;

f. Residential, institutional, or other incompatible land uses are present on adjacent lots;

g. Existing infrastructure obstructions; or

h. Other safety or security concerns, or topographic constraints, in the sole opinion of the Town Planning Director.

04. CONFIGURATION

Parking lot connections shall join parking lots on two or more different lots (see Figure <>: Parking Lot Connections) subject to these standards:

a. A parking lot connection shall be included on at least two sides of a lot except when conditions prevent connections in accordance with Section <>, Exemptions;

b. Parking lot connections shall be paved with asphalt, concrete, or pavers and shall maintain a minimum width of 12 feet for one-way traffic and 24 feet for two-way traffic;

c. All parking lot connections shall be built to the lot line, to the maximum extent practicable; and

d. A minimum distance of 50 feet shall be required between a parking lot connection and the intersection of a driveway entrance and a street. This distance may be reduced as necessary to connect with an existing cross access way on an abutting lot, in the sole discretion of the Planning Director.

05. IMPACT ON REQUIRED SITE FEATURES

a. Where a required parking lot connection eliminates a required landscape planting area, the landscaping requirements shall be reduced to accommodate the cross-accessway and replacement landscaping shall not be required.

b. When a required parking lot connection eliminates required off-street parking spaces, replacement parking spaces shall not be required.

c. The cross-accessway may be used for off-street parking until cross access on the adjacent lot is complete and the accessway is opened to permit vehicular traffic between the two lots provided this is noted on approved Site Plans and Construction Drawings.

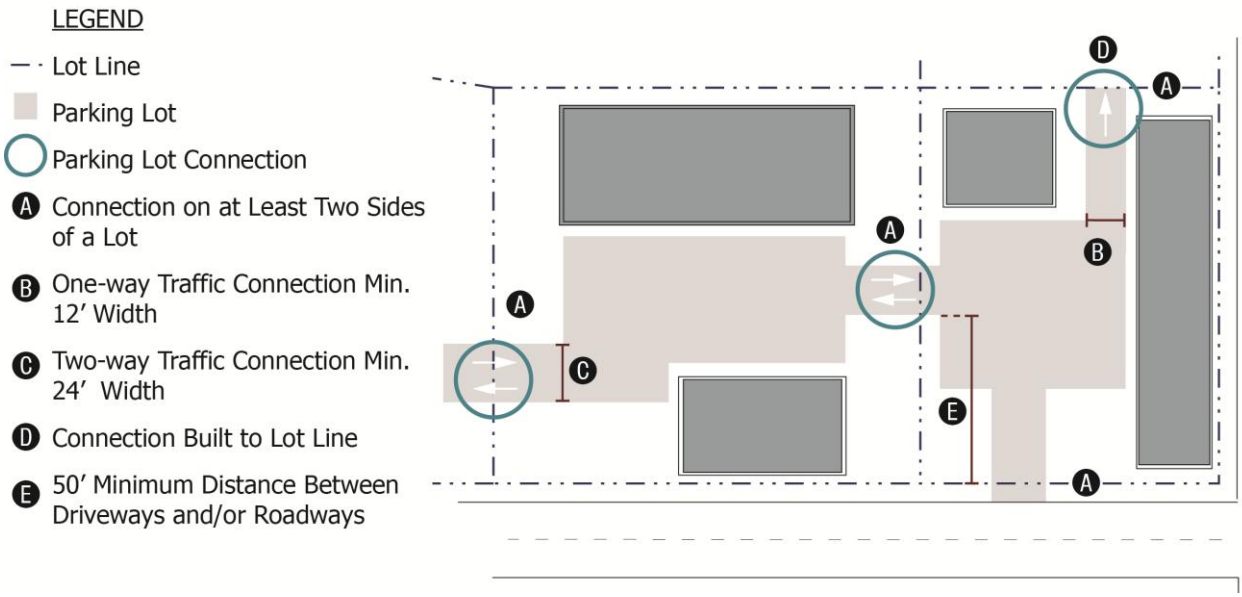
06. EASEMENT REQUIRED

A parking lot connection easement shall be dedicated on the Final Plat for property involving a subdivision, or deeded by a separate recorded instrument, when no plat is proposed.

07. CONNECTION REQUIRED

Development subject to these standards shall install parking lot connections to the shared lot line. In the event development subject to these standards can not achieve a required parking lot cross-access connection, the applicant shall provide a fee-in-lieu in accordance with Section <>, Fee-in-Lieu.

FIGURE <>, PARKING LOT CONNECTIONS



O. VEHICLE BACKING

Vehicular use areas shall be designed so that a vehicle is not required to back onto a street to enter or exit the parking lot, a parking space, or a stacking space.

6.9.7. BICYCLE PARKING SPACES

Bicycle parking shall be provided in accordance with the following standards:

A. APPLICABILITY

01. Unless exempted, bicycle parking facilities shall be provided on all new commercial, mixed-use, multi-family, and institutional use types served by 20 or more required off-street parking spaces for vehicles.

02. The following use types are exempted from these providing bicycle parking space requirements:

a. Single-family detached dwellings, manufactured homes, or mobile homes;

b. Townhouse dwellings;

c. Telecommunications facilities of any type;

d. Bulky item sales;

e. Equipment or tool rental;

f. Funeral-related service;

g. Outdoor storage;

h. Repair shop;

i. Self service storage (regardless of access type);

j. Sexually-oriented businesses;

k. Any industrial use types; or

l. Other land non-traditional land uses or land uses in locations not likely to be served by safe bicycle facilities, in the sole opinion of the Planning Director.

B. RATE OF PROVISION

Bicycle parking spaces shall be provided in accordance with Table <>, Bicycle Parking Space Provisions:

TABLE <>: BICYCLE PARKING SPACE PROVISIONS

TYPE OF USE OR DEVELOPMENT	MINIMUM NUMBER OF BICYCLE SPACES PROVIDED
Commercial Development	1 per every 5,000 square feet of floor area
Institutional Development	
Mixed-Use Development	1 per every 15 units + 1 per every 1,500 square feet of non-residential floor area
Multi-Family Development	1 per every 15 units
NOTES:	[1] Nothing shall limit the provision of more bicycle parking spaces than are required.

C. CONFIGURATION

All bicycle parking spaces provided, including those provided in excess of the minimum number of required spaces, shall comply with the following configuration requirements.

01. Bicycle parking should be accessible to the primary entrances of the development and located in a visible, well-lit area (see Figure <>, Bicycle Parking).

02. Bicycle parking shall be served by a pedestrian walkway connecting the bicycle parking to the closest primary building entrance.

03. Bicycle parking shall be located where it does not interfere with pedestrian traffic and is protected from conflicts with vehicular traffic.

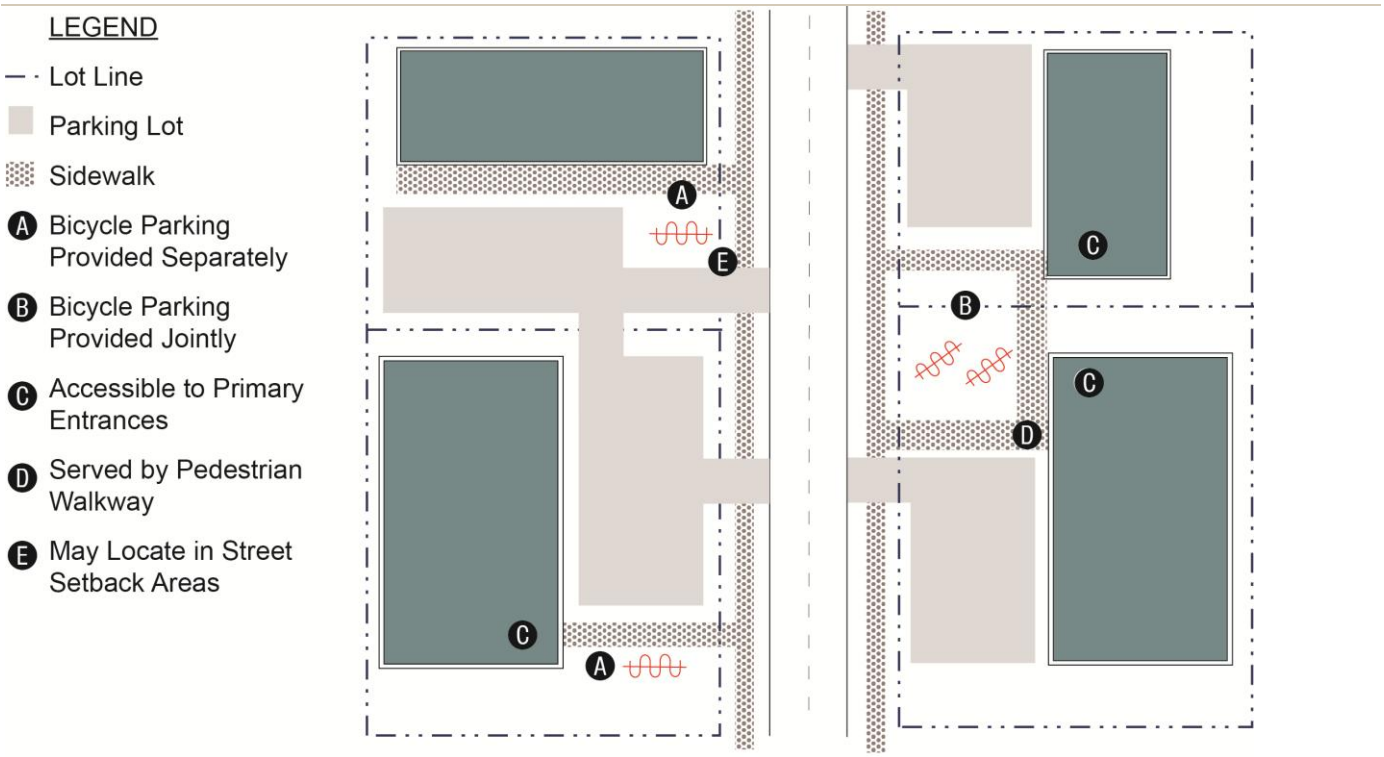
04. Bicycle parking may be accommodated within street setback areas.

05. A bicycle rack or other device shall be provided to enable bicycles to be secured.

D. SHARED PARKING SPACES

Nothing shall limit uses on the same block face from establishing shared or consolidated bicycle parking spaces in central or mid-block locations, provided there are sufficient bicycle parking spaces for all uses sharing the required bicycle parking.

FIGURE <>: BICYCLE PARKING



6.9.8. PARKING FLEXIBILITY

Development may deviate from the off-street parking requirements in this section through the requirements and procedures in Section <>, Administrative Adjustment, Section <>, Alternative Plan, Section <>, Conditional Rezoning, Section <>, Zoning-Related Variance, and the following:

A. GENERALLY

All parking spaces provided in accordance with this section shall comply with the applicable provisions in Section <> Parking Lot Configuration.

B. ALTERNATIVE SURFACING

01. The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to, "grasscrete," "turfstone," cellular reinforced paving systems, porous concrete, pervious pavers, washed and crushed stone, or recycled materials such as glass, brick, block, and concrete, may be proposed for required off-street parking spaces, drive aisles, or vehicular surface areas on a site, provided such areas are properly maintained. Where possible, such materials should only be used in areas proximate to and in combination with on-site stormwater control measures or tree protection measures.

02. Grass or other pervious parking surfaces may be permitted for the following use types:

a. Uses which require off-street parking less than five days per week during a month;

b. Religious institutions; and

c. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and similar outdoor recreation areas.

03. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this section will be required.

C. DEVIATION FROM REQUIRED MINIMUM

An applicant may propose a reduced rate of provision for off-street parking less than that specified in Table <>, Table of Minimum Off-Street Parking Requirements, in accordance with a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why fewer spaces than required will be adequate while still protecting the public's health, safety, and welfare.

D. PROVISION OVER THE MAXIMUM ALLOWED

An applicant proposing development subject to the standards in Section <>, Off-Street Parking Maximum, may propose a total number of off-street parking spaces that exceeds the maximum allowed only through the provision of a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why the provision of off-street parking spaces beyond the maximum authorized is necessary for the public's health, safety, or welfare.

E. SHARED PARKING

The required off-street parking for a use may be met with shared use of the required off-street parking spaces of another use, only in accordance with the following standards:

01. The use of shared off-street parking spaces shall be subject to a shared parking agreement executed by the landowners of the uses involved, approved by the Planning Director, and recorded in the office of the Henderson County Register of Deeds;

02. The shared parking agreement shall guarantee the long-term availability of the shared parking spaces in question. Nothing shall limit the percentage of required off-street parking spaces that may be provided through a shared parking agreement;

03. The shared parking is located within 1,000 feet, as measured from the entrance of the use to the nearest shared parking space;

04. A sidewalk or paved pedestrian walkway is provided to the shared parking area from the use;

05. The uses served by the shared parking must have different peak parking demands, differences in hours or days of operation, or otherwise operate such that the uses sharing parking have access to the required minimum number of off-street parking spaces when in operation; and

06. Should the shared parking agreement cease, then the use(s) formerly served by shared parking shall be brought into compliance with the minimum off-street parking requirements of this section.

F. OFF-SITE PARKING

Up to 50 percent of off-street parking space requirements may be met by locating required parking in an off-site location, in accordance with the following standards:

01. The off-site parking is located within 1,000 feet from the use it serves, as measured from the entrance of the use to the nearest off-site parking space;

02. A sidewalk or paved pedestrian walkway is provided to the off-site parking area from the use;

03. In cases where the off-site parking is located on land under separate ownership from the use it serves, the off-site parking shall be subject to a written agreement executed by the owners involved and filed with the Planning Director prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of the off-site parking in question; and

04. Should an off-site parking agreement cease, then the use shall be brought into compliance with the minimum off-street parking requirements of this section.

G. ON-STREET PARKING

01. On-street parking spaces located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the street right-of-way, and not within any required clear sight triangle, may be credited toward minimum off-street parking standards.

02. On-street parking shall consist solely of parallel parking spaces and shall not encroach into vehicle travelways.

03. In no instance shall on-street parking located within the middle of the street or on the opposite side of a street from the use to be served be credited toward required off-street parking.

6.9.9. OFF-STREET LOADING

A. LOADING FACILITIES REQUIRED

Every application for a non-residential use shall ensure that adequate off-street loading facilities are provided so that loading vehicles do not occupy required off-street parking spaces, block vehicular access, or prevent appropriate on-site maneuvering during times when the site is open to the public. Nothing shall limit the use of these areas at times of the day when the use is not open to the public. Uses may also establish dedicated loading zones for the purpose of accepting deliveries or making shipments during operating hours.

B. MINIMUM OFF-STREET LOADING SPACE REQUIREMENTS

01. A minimum number of off-street loading spaces is not established; however, if off-street loading spaces are provided, they shall be provided and maintained in sufficient numbers to adequately handle the needs of a non-residential use.

02. Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this Ordinance.

03. In no instance shall an off-street loading space occupy a required off-street parking space, project into a required drive aisle or street right-of-way, or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles.

04. Each off-street loading space shall be designed with an appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic circulation.

C. LOCATION

No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.

D. DIMENSIONAL STANDARDS FOR LOADING SPACES

When off-street loading spaces are provided, they shall comply with the following minimum requirements (see Figure <>, Off-Street Loading Spaces):

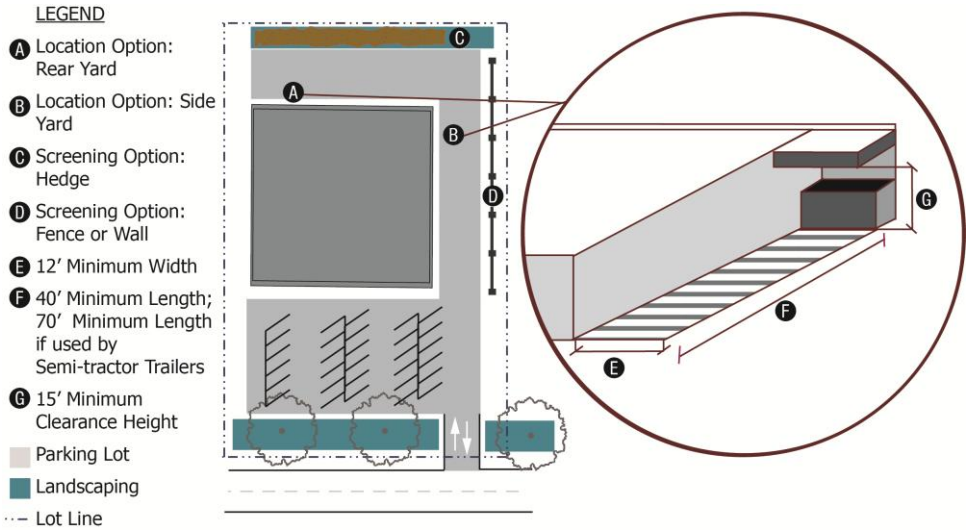
01. Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 12 feet wide and at least 40 feet long;

02. Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet long;

03. Overhead clearance for an off-street loading space shall be at least 15 feet; and

04. Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

FIGURE <>, OFF-STREET LOADING SPACE



§ 6.10 REFUSE AND RECYCLING COLLECTION

6.10.1. PURPOSE AND INTENT

The purpose of this section is to establish basic standards to address location, screening, configuration and access provisions related to on-site garbage collection and recycling containers. These standards are intended to:

A. Protect public health, safety, and welfare;

B. Prevent obstruction of rights-of-way;

C. Avoid interference with pedestrian and vehicular circulation;

D. Ensure service vehicles have safe and efficient access to facilities;

E. Maintain a clear, orderly appearance on development sites;

F. Minimize the opportunities for windblown trash or debris to exit the location of disposal; and

G. Mitigate adverse impacts related to noise, odors, stormwater runoff, and visual clutter.

6.10.2. APPLICABILITY

The standards in this section shall apply to all development sites that contain or that are served by refuse collection and/or recycling bins of one cubic yard in capacity or larger that are located outside of a building.

6.10.3. EXEMPTIONS

A. These standards shall not apply to dumpsters or waste containers utilized solely for purposes of construction waste on site during active construction, reconstruction, or remodeling.

B. These standards shall not apply to:

01. New and never-used refuse and recycling containers being manufactured or stored for the purposes of resale;

02. Empty refuse and recycling containers available for rent or purchase;

03. Refuse or recycling containers on a site for the sole purpose of collection and storage of storm debris.

6.10.4. STANDARDS

A. NUMBER REQUIRED

Each use type shall provide refuse and recycling collection facilities of a number and size necessary to accommodate all refuse and recycling material generated or that accumulates between periodic removal service.

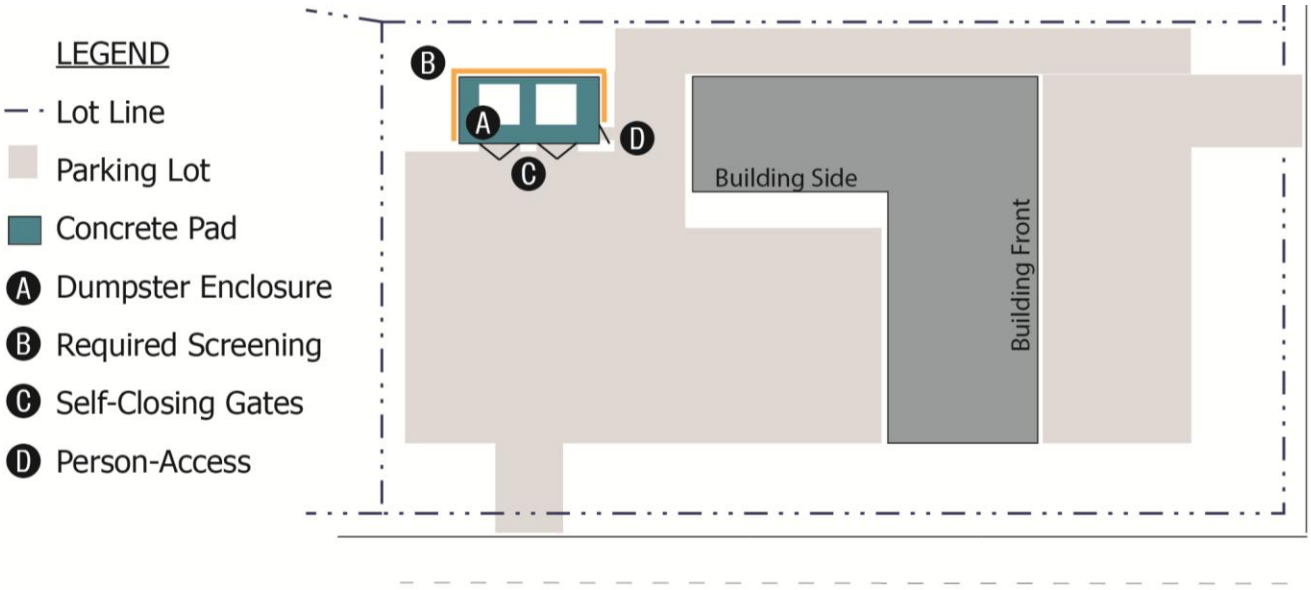
B. LOCATION

01. Refuse and recycling containers shall be located entirely within the boundaries of the lot or development site they serve. In no instance shall a refuse or recycling container be located within a public street right-of-way.

02. Refuse and recycling container areas shall not be located within required setbacks, sight distance triangles, easements, required open space set-asides, required off-street parking spaces, stormwater management devices, or required landscaping areas.

03. Wherever possible, refuse and recycling container areas shall be located to the side or rear of a principal building and no closer to a street than a front or side building façade wall (see Figure <>, Container Location).

FIGURE <>: CONTAINER LOCATION



C. NO INTERFERENCE WITH CIRCULATION

Refuse and recycling containers shall be stored in areas that may be accessed and serviced by vehicles without creating safety hazards, interrupting traffic of pedestrian circulation, blocking site functions like off-street parking or loading, or in area that require a service vehicle to back into a street right-of-way.

D. ENCLOSURE REQUIRED

All dumpsters and refuse or recycling containers shall be fully enclosed by a fence, wall, or architectural integration into a principal or secondary building wall of a minimum height necessary to enclose all containers.

E. GATES

Enclosures surrounding refuse and recycling containers shall include self-closing gates that will provide the same level of screening as required for the enclosure.

F. SCREENING

Refuse and recycling containers shall be screened in accordance with the applicable requirements in Section <>, Screening.

G. PADS

01. Refuse and recycling containers shall be stored on a concrete pad served by a reinforced concrete apron capable of supporting the weight of the service vehicle.
02. Pads shall maintain positive drainage that are sloped away from containers and configured to collect and manage stormwater.
03. In no instance shall pad runoff be discharge directly to a storm drain.

H. WINDBLOWN TRASH SUPPRESSION REQUIRED

01. Refuse and recycling containers shall be fitted with self-closing lids or be stored within an enclosure that has a prevents trash or debris from blowing out of the enclosure.
02. Refuse or recycling shall not be stored outside of approved containers or container enclosures, except during active loading.

I. SANITARY CONDITION

All refuse and recycling containers, and the enclosures they are located within, shall be maintained in a clean and sanitary condition.

§ 6.11 RESOURCE PROTECTION

6.11.1. FARMLAND COMPATIBILITY STANDARDS

A. PURPOSE AND INTENT

The purpose and intent of these farmland compatibility standards is to ensure development that is proposed adjacent to bona fide farms located within voluntary agricultural districts remains compatible with existing farms and agricultural uses in the Town's planning jurisdiction. More specifically, these standards are intended to:

01. Ensure new development does not negatively impact existing adjacent agricultural uses;

02. Maintain and promote rural character in agricultural areas; and

03. Ensure greater compatibility between existing farms and new non-farm uses developed in close proximity to an existing farm or tract engaged in agricultural activity.

B. APPLICABILITY

The standards in this section shall apply to all Conservation Subdivisions, Preliminary Plats, Conditional Rezonings, Special Use Permits, and Site Plans proposed on lots of two acres in area or more that are adjacent to land within a designated Voluntary Agricultural District or Enhanced Voluntary Agricultural District at the time the application for a subdivision, rezoning, use permit, or site plan is submitted.

C. AGRICULTURAL DISTRICTS AUTHORIZED

01. Voluntary or Enhanced Voluntary Agricultural Districts are authorized and established by Henderson County in accordance with NCGS§§106-735 through 106-743.5, the 3/13/14 Memorandum of Understanding between Henderson County and the Town of Mills River, Chapter 45 of the Henderson County Code of Ordinances, and Section 150.02 of the Town Code of Ordinances.

02. Details on the applicable County provisions and current boundaries of the Voluntary and Enhanced Voluntary Agricultural Districts are available from the Henderson County Soil and Water District.

D. COMPATIBILITY STANDARDS

Development subject to the standards in this section shall comply with the following:

01. VEGETATED BUFFER

a. Development subject to these standards shall provide a 50-foot-wide vegetated buffer between building lots in the development and the boundary of the Voluntary or Enhanced Voluntary Agricultural District (see Figure <>: Vegetated Buffer). The buffer shall:

i. Remain undisturbed for a minimum distance of 25 feet from the edge of the agricultural use or boundary of the agricultural activity;

ii. Include at least eight trees for every 100 linear feet of buffer length;

iii. Include at least eight evergreen shrubs for every 100 linear feet of buffer length;

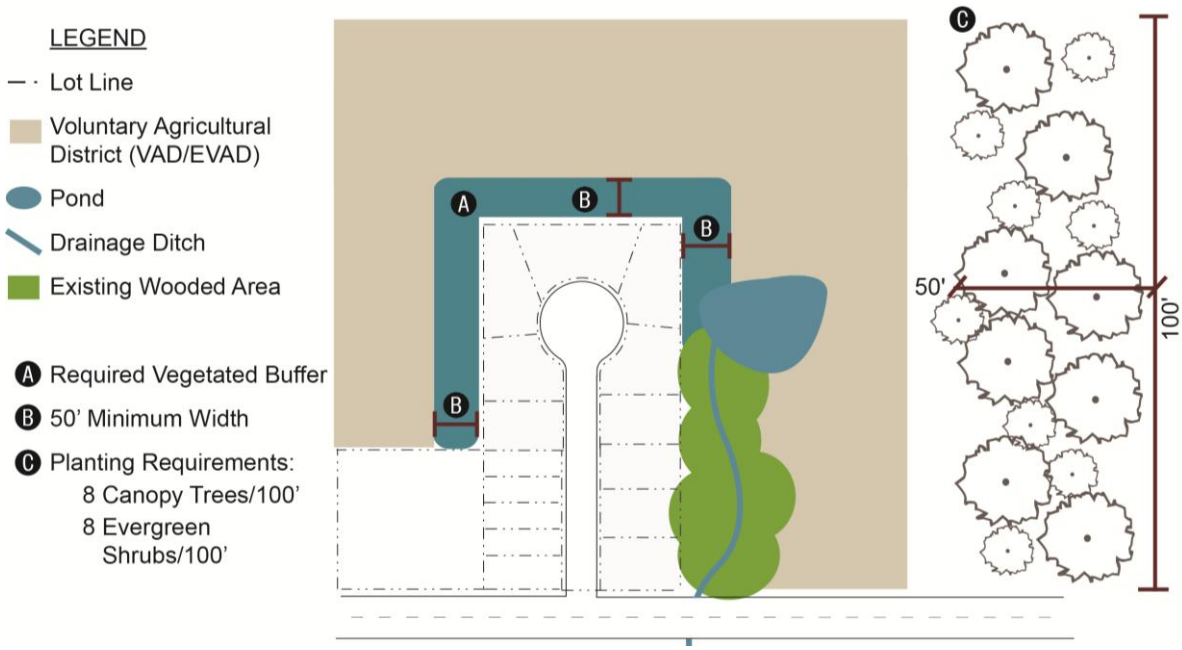
iv. Incorporate existing or planted vegetation, configured in a staggered fashion, so as to create two or more rows of trees within the buffer; and

v. Incorporate a berm, drainage ditch, or any combination of these features to physically separate the agricultural use from the new development.

b. Nothing shall limit the placement of a required stormwater control measure or best management practice within a required buffer provided the minimum buffer width is maintained.

c. No plantings shall be required in cases where a water feature or stormwater control measure is located within the area occupied by the required buffer.

FIGURE <>: VEGETATED BUFFER



02. LOCATION OF OPEN SPACE SET-ASIDE

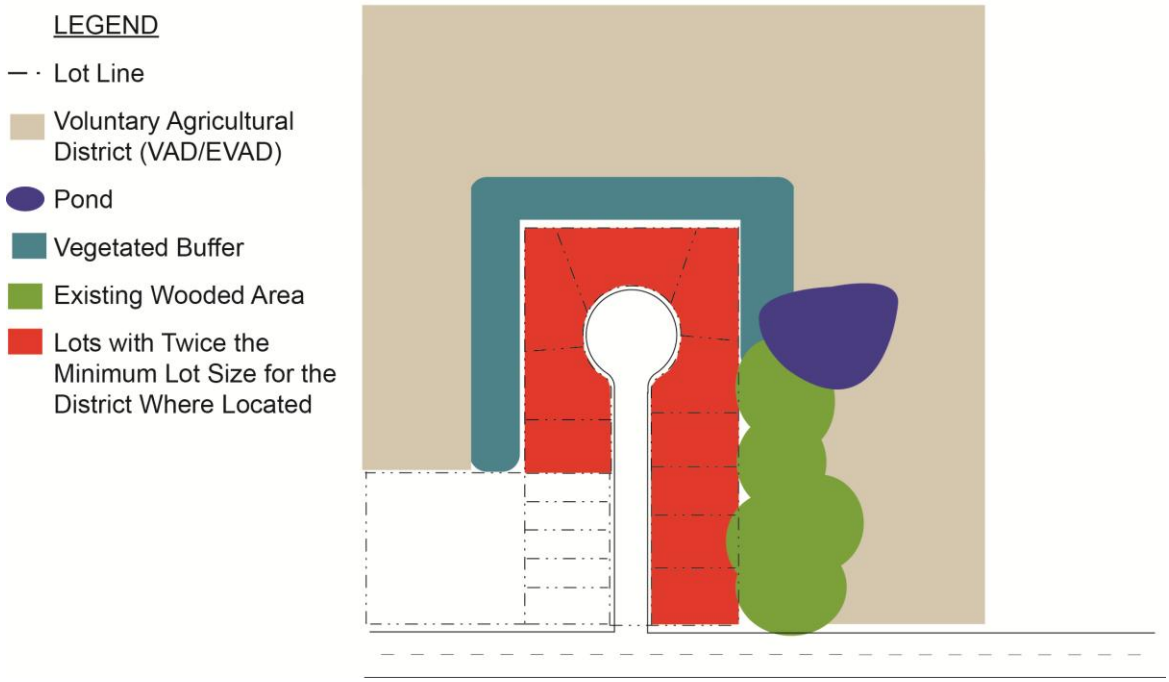
a. Except for Conservation Subdivisions, in cases where new development includes an open space set-aside, it shall be located between the agricultural use and the buildings in the new development, to the maximum extent practicable. Land area occupied by the vegetated buffer shall be credited towards the open space set-aside requirements. Nothing shall limit the requirement for the vegetated buffer even in cases when its provision will result in more open space than is required by Section <>, Open Space Set-Aside.

b. In instances where a Conservation Subdivision is proposed, the vegetated buffer required in Section (01) above shall be sufficient in terms of buffering between building lots and the adjacent Voluntary or Enhanced Voluntary Agricultural District boundary, and open space set-aside may be located in accordance with the Conservation Subdivision approval.

03. MINIMUM LOT AREA INCREASED

Except for lots in a Conservation Subdivision, lots being established through a Preliminary Plat that border the vegetated buffer shall maintain a minimum lot area twice the minimum lot area required by the base zoning district where the subdivision is located (see Figure <>, Increased Lot Area). This standard shall not be reduced through approval of a Conditional Rezoning.

FIGURE <>: INCREASED LOT AREA



E. NOTIFICATION ON PLAT

Preliminary and Final Plats subject to these standards shall bear a notation indicating the development is adjacent to or within one-half mile of an existing agricultural or farm use that is anticipated to generate noise, light, dust, odor, or vibration as part of its normal operations.

F. REZONING OF LAND WITHIN AN AGRICULTURAL DISTRICT[27]

01. The Town shall not initiate any action to rezone land within a voluntary agricultural district or an enhanced voluntary agricultural district until after it has requested that the Henderson County Agricultural Advisory Board and the Town's Agricultural Advisory Committee hold a public hearing on the proposed rezoning.

02. Following receipt of the request, the Henderson County Agricultural Advisory Board and the Town's Agricultural Advisory Committee shall conduct a public hearing and submit their findings and recommendations on the rezoning to the Town.

03. A recommendation by the Henderson County Agricultural Advisory Board and the Town's Agricultural Advisory Committee on a potential rezoning shall be advisory in nature.

04. The Town shall not formally initiate the rezoning action until 120 days after the date the Henderson County Agricultural Advisory Board and the Town's Agricultural Advisory Committee submit their findings and recommendations on the rezoning to the Town.

6.11.2. HILLTOP AND HILLSIDE PROTECTION

A. PURPOSE AND INTENT

The purpose for these standards is to ensure that the areas of elevation in the Town's planning jurisdiction are protected or developed with due consideration of visual and stormwater impacts of downslope areas. These standards are intended to:

01. Allow the reasonable development of lots and sites on hillside and hilltop areas;

[27] NOTE: This section is the result of Session Law 2025-12. The Statute requires the local Ag Board to provide a recommendation on a rezoning of land in a VAD or EVAD. There is also a 120-day waiting period after the Ag Board has provided its recommendation before the Town can initiate its consideration of the request.

02. Preserve scenic views and rural character throughout the Town;

03. Reduce visual prominence of development when viewed from public lands and streets at lower elevations;

04. Reduce visual contrasts between new development and the existing natural landscape; and

05. Help limit downslope stormwater runoff, sedimentation, and increased landslide risks.

B. APPLICABILITY

The standards in this section shall be applied to new development on any lot or site located at or above an elevation of 2,400 feet above mean sea level (AMSL), including instances where 33 percent or more of the lot is located at or above an elevation contour corresponding with 2,400 feet AMSL before any site grading takes place.

C. EXEMPTION

These standards shall not apply to:

01. Lawfully-established principal uses existing or approved prior to (*insert the effective date of this Ordinance*);

02. Agricultural activity associated with a bona fide farm or forestry taking place in accordance with a lawfully-established forestry management plan;

03. Governmental, public safety, or utility structures, provided that these structures are configured in ways to minimize their appearance from lower elevations.

04. Lots or sites where less than 33 percent of the lot or site is located at or above the 2,400 feet AMSL elevation contour prior to any grading.

D. REVIEW PROCEDURE

All development subject to these standards, including single-family detached dwellings, shall be subject to the standards and requirements in Section <>, Site Plan.

E. STANDARDS

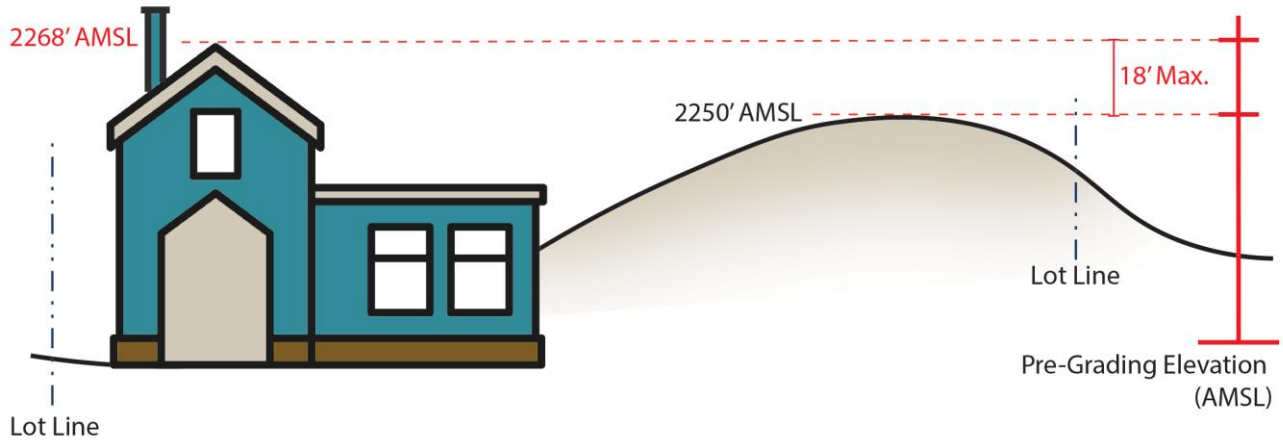
01. MINIMUM LOT AREA

Regardless of the zoning district designation, lots subject to these standards shall maintain a minimum lot area at least 33 percent greater than the minimum lot area required for the zoning district where located. Compliance with this standard may be adjusted via an allowable flexibility mechanism such as an Administrative Adjustment, Conditional Rezoning, or Variance.

02. BUILDING HEIGHT LIMITED

Buildings on lots subject to these standards shall be configured so that the highest point of the roof does not exceed a height more than 18 feet above the elevation of the highest point of natural elevation on the site, prior to any grading (see Figure <>, Building Height Limited).

FIGURE <>: BUILDING HEIGHT LIMITED

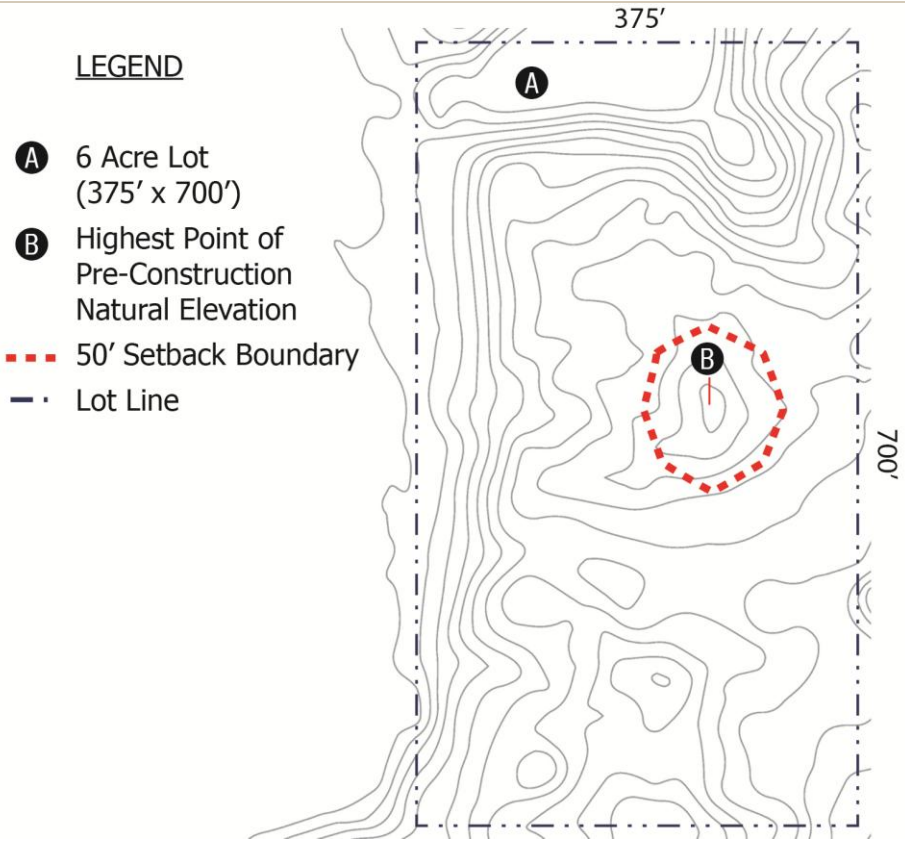


03. HORIZONTAL SETBACK REQUIREMENTS

a. All principal and secondary structures shall be setback at least 50 linear feet from the highest point of natural elevation on the site prior to any grading. In cases where the highest point of natural elevation is a uniform elevation contour, the origin point of the setback shall be determined by the Planning Director during Site Plan review (see Figure <>: Horizontal Setback).

b. This setback origin point and corresponding elevation shall be indicated on the required Site Plan.

FIGURE <>: HORIZONTAL SETBACK



04. TREE PROTECTION

Development subject to these standards, including the development of an individual single-family detached dwelling on its own lot, shall comply with the standards in Section <>, Tree Protection.

05. STORMWATER DISPERSAL

a. GENERALLY

Development subject to the standards in this section shall incorporate stormwater control measures that effectively disperse stormwater that falls on or flows through the development site in accordance with the standards in this section.

b. DISPERSAL DEFINED

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

c. ALLOWABLE METHODS

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

i. Disconnected downspouts located in logical dispersed locations around a structure, such as adjacent to structural corners, that drain to flat or relatively flat vegetated areas of a site;

ii. Use of green roofs that retain stormwater;

iii. Use of rain gardens, bio-retention cells, dry wells, or planting beds located at strategic points of stormwater flow;

iv. Use of pervious paving or pavers;

v. Avoiding impervious edging along a paved surface that will channel stormwater runoff to a single point;

vi. Use of rainwater harvesting devices like cisterns or rain barrels that capture rainwater for subsequent and directed hand watering;

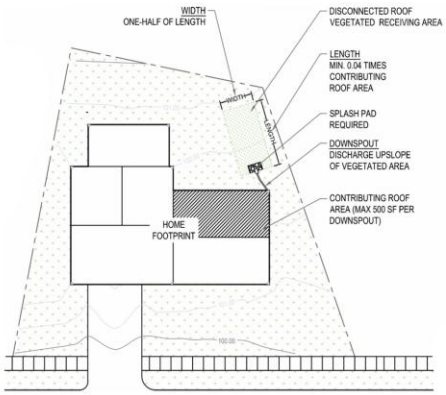
vii. Dispersion trenches of two-to-three feet in depth filled with crushed stone and a notched weir or spreader board on the downslope side of the trench;

viii. Level spreaders intended to facilitate localized sheet flow of rainwater runoff across a site; and

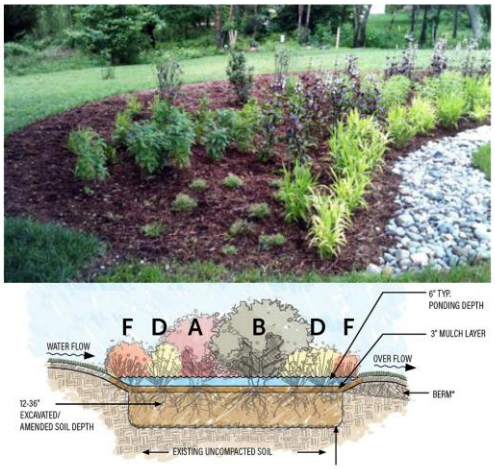
ix. Other techniques as approved by the Planning Director during the Site Plan review.

FIGURE <>: DISPERSAL TECHNIQUES

Disconnected Downspout



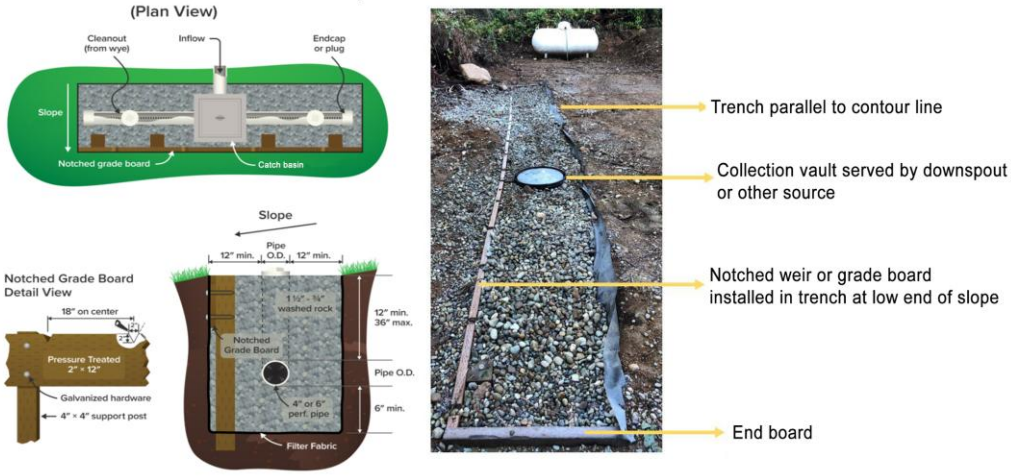
Rain Garden



Green Roof

Level Spreader

Dispersion Trench



06. EXTERIOR COLOR GUIDELINES

Development subject to these standards is strongly encouraged to utilize exterior colors and materials that help the structure blend into the hillside landscape when viewed from lower elevations. This can be achieved through:

a. Use of non-reflective wall and roofing materials with matte or low-sheen finishes;

b. Utilization of muted earth tones, such as browns, dark greens, and grays;

c. Avoidance of vivid, light, pastel, or high saturation colors, including white, cream, silver, and light greens;

d. Using primary colors and materials with medium-to-dark color values and avoiding contrasting secondary colors;

e. Ensuring parity or similarity between exterior wall and roof colors; and

f. Applying these color and material guidelines to construction features like railings, chimneys, garage doors, solar panels, and HVAC equipment.

07. LIMITATIONS ON TELECOMMUNICATION FACILITIES

Land subject to these standards proposed for development with a telecommunication facility shall limit the facility's configuration to antenna collocations, stealth wireless facilities, minor telecommunication towers, or small wireless facilities (see Section <>, Telecommunication Facilities). In no instance shall land subject to these standards be developed with a new major telecommunications facility, even through utilization of Conditional Rezoning application.

6.11.3. RIPARIAN SETBACKS

A. PURPOSE AND INTENT

The purpose of the riparian setback requirements is to protect the functional integrity of streams, wetlands, surface waters, and associated riparian areas while allowing reasonable use of property. These standards are intended to:

01. Reduce the potential for erosion, sedimentation, and pollutants entering waterways;

02. Protect water quality and aquatic habitat;

03. Maintain natural flood conveyance capacity; and

04. Minimize risks to public safety and property from flooding and streambank instability.

B. APPLICABILITY

01. These riparian setback standards apply to all lots and sites that abut the banks of perennial (or so-called "blue-line") streams indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps. These maps are available for inspection in the offices of the Mills River Town Hall.

02. These standards shall also apply to other surface waters and wetlands identified in a stream or surface water determination study conducted by a licensed professional qualified to make such determinations.

C. STANDARDS

01. SETBACK REQUIRED

Except for building and structures exempted from these standards in Section <>, Exempted Structures, a minimum 30-foot setback is applied from the top of a perennial stream or surface water bank to the closest portion of all buildings or structures on lots or sites subject to these standards.

02. EXEMPTED STRUCTURES

a. The following buildings or strictures shall be exempted from the 30-foot setback:

i. Street crossings;

ii. Pedestrian bridges;

iii. Culverts;

iv. Utilities;

v. Boardwalks, overlooks, and fishing platforms; and

vi. Water-dependent use types.

b. When an exempt structure is located within a required riparian setback, the structure shall be configured to span the riparian buffer in a perpendicular manner than running parallel to and within the riparian buffer, to the maximum extent practicable.

03. CUT AND FILL

Cut and fill shall be prohibited unless included as part of a Town- or State-authorized stream restoration project.

04. REMOVAL OF VEGETATION

Clearing and management of existing vegetation within a required riparian setback area is permitted, provided that cleared vegetation is replaced in accordance with the standards in Section <>, Reforestation.

05. DEPICTION ON PLATS AND PLANS

a. The location of perennial stream and surface water banks and the associated 30-foot minimum riparian setback shall be depicted on all Site Plans, Preliminary Plats, and Final Plats.

b. Wherever possible, the riparian setback area shall be included as open space set-aside, and shall not be located within the individual building lots proposed in a subdivision.

§ 6.12 SIDEWALKS, SIDEPATHS, AND GREENWAYS

6.12.1. PURPOSE AND INTENT

The purpose of this section is to establish standards for the provision of sidewalks, sidepaths, and greenways as a part of new development. Sidewalks, sidepaths, and greenways help create a safe, accessible, and interconnected network of pedestrian and bicycle facilities throughout the Town. These standards are intended to:

A. Distinguish between sidewalks, greenways, and sidepaths;

B. Promote mobility options beyond the automobile;

C. Support environmental stewardship and provide non-vehicular access to environmentally-sensitive community features; and

D. Enhance public health and safety through requirements that support safe pedestrian and bicycle travel.

6.12.2. SIDEWALKS, SIDEPATHS, AND GREENWAYS DISTINGUISHED

Sidewalks, sidepaths, and greenways maintain different configurations, locations, purposes, and operation requirements in accordance with the following:

A. SIDEWALKS

01. Sidewalks are paved, linear walkways for pedestrians that are located within public rights-of-way.

02. Sidewalks are surfaced with concrete and maintain a minimum width of at least five feet unless a greater width is required in accordance with applicable State or federal standards.

03. Sidewalks shall maintain maximum grades and clearances in accordance with Town, State, and federal requirements.

04. Sidewalks are located outside and are physically separated from adjacent vehicular travelways.

05. Sidewalks, when required, are mandatory, unless the Town accepts payment of a fee-in-lieu.

06. Sidewalks are located on land owned by the Town or NCDOT and are operated and maintained by the Town.

07. Sidewalks allow access to all members of the general public.

B. SIDEPATHS

01. Sidepaths are a paved or improved shared-use path located on private property that is paved or otherwise improved for use by pedestrians and bicyclists in order to transverse a site, reach a particular destination, or as an alternative to a greenway or sidewalk.

02. Sidepaths are located outside public street rights-of-way, though they may be located within a private street right-of-way.

03. Sidepaths are owned, operated, and maintained by a private entity or owners' association.

04. Sidepaths are credited towards the sidewalk requirements in this Ordinance in cases where they are located within a public access easement and are configured in accordance with the standards for sidewalks in this Ordinance or the Town's adopted policy guidance.

05. Sidepaths are credited towards open space set-aside requirements when configured in accordance with the applicable standards in Section <>, Open Space Set-Aside.

C. GREENWAYS

01. Greenways are linear alignments of land that incorporate an improved pedestrian walkway or multi-purpose accessway available for use by bicyclists as well as pedestrians. Greenways are located on land dedicated to the Town or other governmental agency, or are located within a public access easement in favor of the Town, and allow access to members of the general public.

02. Greenways include "trails" as described in the Town's adopted policy guidance, such as Go Mills River Pedestrian and Bicycle Plan.

03. Greenways are located in areas designated by the Town's adopted policy guidance and may take the place of a required sidewalk.

04. Greenways are located on land owned by the Town or are within access easements in favor of the Town, and are operated and maintained by the Town.

05. Greenways may also include utilities and stormwater control devices.

06. Greenways are configured in accordance with the standards in the Town's adopted policy guidance.

6.12.3. SIDEWALKS

A. APPLICABILITY

Except where exempted in accordance with Section <>, Exemptions, the standards in this section shall apply to the following forms of development:

01. New development proposed on a lot that abuts an existing or planned major public street right-of-way;

02. Alterations of existing development or changes of use after (*insert the effective date of this Ordinance*) on a lot that abuts an existing or planned major public street right-of-way;

03. Preliminary Plats that include 50 lots or more, regardless of the number of lots in the active or proposed phase;

04. Development on or abutting land designated for a sidewalk facility in Go Mills River or other aspect of adopted policy guidance; and

05. Applications for a Conditional Rezoning.

B. EXEMPTIONS

The following forms of new development are exempted from complying with these sidewalk standards:

01. Development of one single-family detached dwelling on its own lot of record; and

02. Development already adequately served, in the opinion of the Planning Director, by a planned or existing greenway, trail, or sidepath.

C. SIDEWALK DEDICATION AND CONSTRUCTION REQUIRED

01. Unless subject to an alternative option in accordance with Section <>, Sidewalk Alternatives, development subject to the standards in this section shall:

a. Dedicate all land necessary for the establishment of new, or continuation of existing, sidewalks to the Town;

b. Construct all required sidewalks in accordance with the standards in this Ordinance, applicable NCDOT standards, or adopted policy guidance, as appropriate; and

c. Donate the completed sidewalk to the Town or the NCDOT, as appropriate.

02. In cases where a sidewalk extends between two or more phases of a development, only the portion of the sidewalk in the active phase of the development is required to be dedicated and constructed.

D. SIDEWALK LOCATION

Required sidewalk locations are established in accordance with the Town's adopted policy guidance and the following:

01. Sidewalks are required along one side of major public streets.

02. When sidewalks are required on one side of the street, they shall generally be located on the side of the street to best continue existing or planned sidewalk networks.

03. Where there is no clear preferable street side for the placement of a sidewalk or a multi-use path, the pedestrian facility shall be placed on the street side where it is least likely to have a negative impact on deployment of subsequent infrastructure or stormwater management, in the opinion of the Planning Director.

04. In cases where development subject to the standards in this section is located on the opposite side of the major street from the one containing the sidewalk, the applicant shall provide a fee-in-lieu of dedication and construction in accordance with Section <> Sidewalk Alternatives, and Section <>, Fee-in-Lieu.

E. SIDEWALK CONFIGURATION

01. Sidewalks shall be configured in accordance with NCDOT's Design Manual.

02. Sidewalks shall be located within public street rights-of-way and shall be in accordance with applicable NCDOT requirements.

03. Sidewalks shall connect with existing or planned sidewalks at property boundaries.

04. Sidewalks shall continue across the full frontage of a lot from lot line to lot line.

05. Any required sidewalk shall be constructed with concrete or other approved surface material and shall comply with the provisions of the Americans with Disabilities Act.

06. The required sidewalk shall be constructed with a minimum width of 60 inches, a minimum of four inches thickness for areas subject to pedestrian traffic, a minimum of seven inches thickness for areas subject to vehicular traffic, joints spaced every three feet, and a minimum 3,000 PSI compressive strength.

07. In cases where new sidewalk sections are proposed to join with existing pedestrian facilities of a differing width, the new sidewalk or multi-use path width shall include a gradual taper or flare, as appropriate so as to avoid abrupt changes in pedestrian facility width.

F. SIDEWALK ALTERNATIVES

Sidewalks are not required in the following instances:

01. The developer or applicant provides a fee-in-lieu in accordance with Section <> Fee-in-Lieu; or

02. The site is already served by a sidewalk, greenway, trail, or other suitable pedestrian feature, in the sole opinion of the Planning Director.

G. TIMING OF INSTALLATION

Sidewalks, when installed, shall be installed by the developer prior to issuance of a Certificate of Compliance or approval of a Final Plat for the portion of the subdivision under active construction, as appropriate.

H. MAINTENANCE REQUIREMENTS

Maintenance and operation of a sidewalk following acceptance by the Town shall be the responsibility of the Town.

6.12.4. SIDEPATHS

A. APPLICABILITY

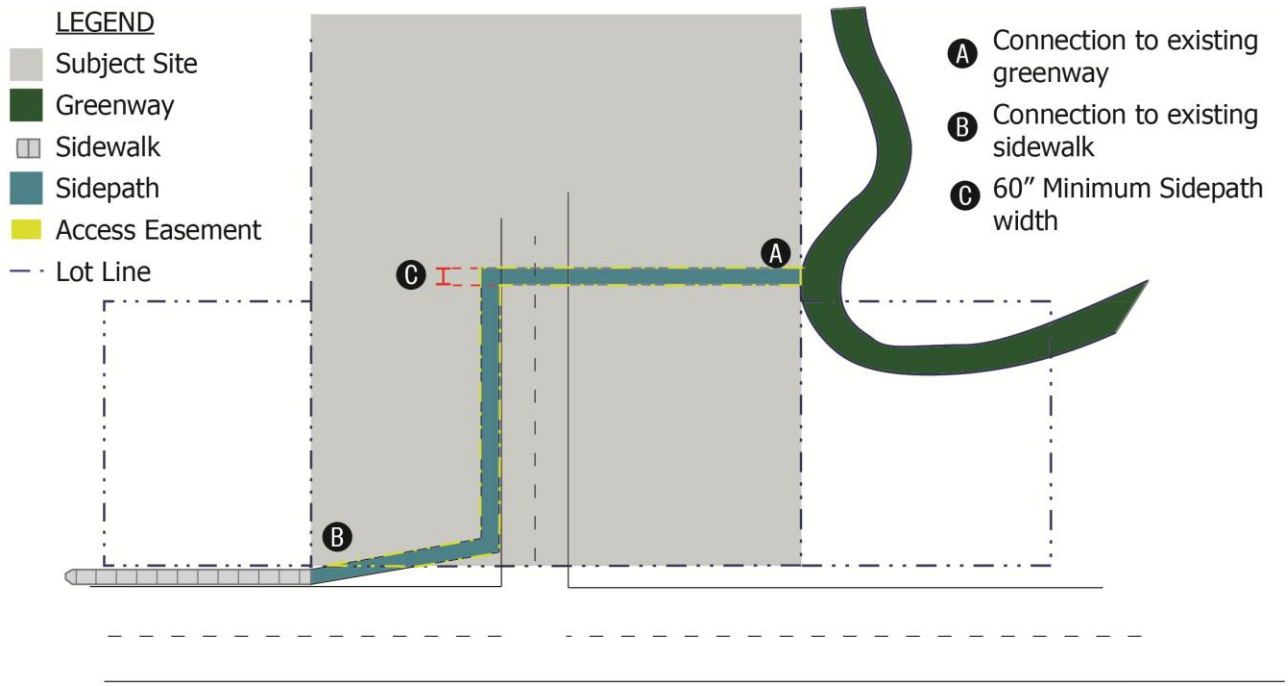
Sidepaths, configured in accordance with the standards in this section, shall be provided within new Preliminary Plats of 50 or more lots.

B. BASIC REQUIREMENT

01. Developments subject to these standards shall include at least one linear foot of sidepath meeting the standards in Section <>, Sidepath Configuration, for each linear foot of public or private street located within the development (see Figure <>, Sidepath Requirements).

02. Provision of required greenways, trails, or sidewalks on public streets outside or abutting the development shall not be credited towards these sidepath requirements; however, when these pedestrian features are located within a proposed development, they may be credited toward sidepath requirements.

FIGURE <>: SIDEPATH REQUIREMENTS



C. SIDEPATH LOCATION

01. The location and route of a sidepath shall be at the discretion of the developer or applicant, but shall be located within the subject development site and maintain logical origin and termination points;

02. Sidepaths shall connect to an existing or planned sidewalk, trail, or greenway located within or adjacent to the development, if available.

03. The Planning Director may advise an applicant on locations of future off-site sidewalks, trails, or greenways that should become connection points.

D. ACCESS EASEMENT REQUIRED

All sidepaths shall be located within a public access easement that permits free movement along the sidepath for members of the general public. The easement shall be clearly identified on all Preliminary Plats, Site Plans, Construction Drawings, and Final Plats, and shall be recorded in the office of the Henderson County Register of Deeds prior to the issuance of any Certificates of Compliance.

E. SIDEPATH CONFIGURATION

01. Sidepaths shall be configured in accordance with Section <>, Sidewalk Configuration.

02. Sidepaths, when provided within stream setbacks, shall be configured in accordance with the Town's requirements for pervious boardwalks or walkways.

F. SIDEPATH ALTERNATIVES

Sidepaths are not required in the following instances:

01. The developer or applicant provides a fee-in-lieu in accordance with Section <> Fee-in-Lieu; or

02. The site is already served by a sidewalk, greenway, trail, or other suitable pedestrian feature, in the sole opinion of the Planning Director.

G. CREDIT TOWARDS OPEN SPACE SET-ASIDE

Sidepaths shall be credited towards active recreation or gathering area requirements in Section <>, Open Space Set-Aside.

H. TIMING OF INSTALLATION

Sidepaths, when installed, shall be installed by the developer prior to issuance of a Certificate of Compliance or approval of a Final Plat for the portion of the subdivision under active construction, as appropriate.

I. MAINTENANCE REQUIRED

Maintenance and operation of a sidepath shall be the responsibility of the developer or the owners' association.

6.12.5. GREENWAYS

A. GREENWAY DEDICATION AND CONSTRUCTION REQUIRED

01. Whenever a lot or site is adjacent, abuts, or includes any part of a greenway or trail designated in the Town's adopted policy guidance, and development is proposed on the lot or site in question, the developer shall dedicate all the land area indicated for use as a greenway or trail alignment to the Town, or shall reserve all the area indicated for use as a greenway or trail alignment and grant a public access easement to the area in favor of the Town.

02. In addition dedication or reservation of the land area in question, the developer shall also construct the greenway or trail in accordance with the configuration identified in the adopted policy guidance.

03. In cases where a greenway or trail extends between two or more phases of a development, only the portion of the greenway in the active phase of the development is required to be dedicated or reserved and constructed.

B. GREENWAY CONFIGURATION

Greenways shall be located and configured in accordance with the Town's adopted policy guidance and the following:

01. MINIMUM GREENWAY WIDTH

The land area associated with a greenway, whether dedicated or reserved, shall be at least 20 feet wide, though a wider greenway may be required in accordance with adopted policy or as needed in cases where a public utility or drainage easement is located within the greenway alignment.

02. GREENWAY ACCESS

A greenway may only be accessed by a public street, publicly-owned land, or by another greenway segment.

03. GREENWAY SURFACE

a. The trail or pathway portion of a greenway shall maintain a minimum width of at least ten feet unless a wider configuration is specified in the adopted policy guidance.

b. The trail or pathway portion shall be paved with asphalt in accordance with the Town's specifications or federal ADA requirements.

c. The trail or pathway portion shall be crowned or maintain positive drainage so that water does not collect or pool within the walkway.

d. All bridges located within a greenway shall include railings of at least 42 inches in height and shall be configured to accommodate the movement of public vehicles.

e. All greenways shall maintain a minimum vertical clearance of at least eight feet.

04. MAXIMUM GRADE

In no instance shall the grade of a paved greenway surface exceed five percent.

05. SLOPE

In no instance shall the vertical slope exceed five percent, or the cross slope exceed two percent.

06. ASSOCIATED FEATURES

Benches, seating, trashcans, lighting, play structures, and other related features located within a greenway shall be approved by the Town prior to placement.

07. LOCATION WITHIN BUILDABLE LOTS

In no instance shall a greenway be located within the boundaries of a buildable lot.

08. LOCATION WITH RIPARIAN AREAS

Greenways may be located within stream setbacks in accordance with the standards in this Ordinance and applicable State and federal law.

C. GREENWAY FEE-IN-LIEU

Only Town-mandated fee-in-lieu proposals (see Section <>, Fee-in-Lieu) for the dedication or construction of a required greenway shall be considered.

D. GREENWAY CREDITS

01. Land that is occupied by a required greenway shall be credited toward the donating parcel, lot, or tract area for the purpose of calculating the available density of development though no longer part of the parcel.

02. The land area associated with a greenway shall be credited toward public park land dedication in accordance with Section <>, Parkland Dedication.

E. MAINTENANCE REQUIREMENTS

Maintenance and operation of a greenway following dedication and construction shall be the responsibility of the Town.

§ 6.13 SIGNAGE[28]

6.13.1. PURPOSE AND INTENT

This section provides guidance and standards for signage across the Town's jurisdiction. The construction and maintenance of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. These provisions are also intended to balance between the promotion of beneficial commerce and the protection of community character. More specifically, these standards are intended to:

A. Promote traffic safety;

B. Avoid interference with protected free speech;

C. Regulate the content of signs to the least extent possible and only when absolutely necessary to protect public health and safety;

D. Regulate off-premise signage in accordance with State law and federal jurisprudence;

E. Ensure that any content–based signage standards serve a compelling public purpose and are as narrowly-tailored as possible;

F. Promote economic development and beneficial commerce;

G. Ensure residents and visitors can locate desired goods, services, and destinations;

H. Avoid conflicts between advertising and public safety signage;

I. Reflect the rural, small-town character and design quality anticipated in the Town's adopted policy guidance; and

J. Minimize any detrimental effects of signage on adjacent properties.

6.13.2. APPLICABILITY

A. Except for the sign types exempted from these standards identified in Section <>, Exemptions, all signs, including temporary signs, shall be constructed, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section and Section <> Sign Permit.

B. Deviations from these standards may be proposed in accordance with Section <>, Alternative Plan.

C. New development comprised of two or more principal buildings on one or more lots is encouraged (but not required) to configure signage in accordance with a Uniform Sign Plan as specified in Section <>, Sign Permit.

6.13.3. EXEMPTIONS

A. The following forms of signage shall not be subject to these signage standards, but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a Building Permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:

01. Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in NCGS§160D-908;

02. Outdoor advertising associated with a bona fide farm in accordance with NCGS§136-129(2a);

03. Farm signs in the right-of-way of a State-maintained roadway during farm season in accordance with NCGS§136-32(b1);

04. Legal notices required by governmental bodies, public utilities, or civic associations;

05. Signage owned or maintained by any unit of government or public agency that includes, but is not limited to, flags, street signs, traffic warning signs, and other signage provided solely by governmental agencies ;

[28] This section carries forward and builds on the standards in the signs section (Sections 154.250 through 268) in the current zoning ordinance. Where possible content-based provisions have been removed. There are several new signage types added (awning, banner, flags, incidental, subdivision, suspended, and window). Basic provisions for current signage (number, height, size, etc.) have been carried forward without substantive revision. Freestanding signs are now called "pole signs" to better distinguish them from monument signs. The current standards for temporary signs are all content-based; these new standards revise this approach to consider signs temporary based on the material, rather than the duration (for the sake of practical administration).

06. Building cornerstones, historical plaques, or grave markers;

07. Signage associated with public transit stops;

08. Holiday displays on lots within all zoning districts;

09. Signage affixed to a motor vehicle, truck, large equipment, or trailer, provided the motor vehicle, truck, trailer, or equipment is parked or stored on the same lot or site where the business being advertised is located or where an employee of the business resides;

10. Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and

11. Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

B. Signage identified in Section <>, Signs not Subject to Sign Permit, are not required to obtain a Sign Permit, but remain subject to the standards in this section.

6.13.4. NONCONFORMING SIGNAGE

Nonconforming signage is subject to the standards in this section and Section <>, Nonconforming Signs.

6.13.5. PROHIBITED SIGNS

The following signs, sign construction, and displays are prohibited throughout the Town's jurisdiction:

A. Off-premise signs or signage that advertises goods or services provided on a different lot, tract, or site from where the sign is located, provided that this prohibition shall not apply to subdivision signs configured in accordance with the applicable standards in Section <>, Sign Standards by Sign Type;

B. New outdoor advertising, whether on- or off-premise, except as allowed for bona fide farms in accordance with Section <>, Exemptions;

C. New electronic message boards or alterations that expand the size, height, or illuminance of existing electronic message boards beyond that in place on (*insert the effective date of this Ordinance*);

D. Feather flags, bow signs, pennants, and streamers;

E. Moving signs, excluding flags, banners, and clocks;

F. Flashing, scrolling, twirling, or blinking signs;

G. Gas- or air-filled balloons, figures, and other inflatable signs;

H. Signs on the roof or above the parapet of a building;

I. Any sign which the Planning Director determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, sidewalk, public trail, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;

J. Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;

K. Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;

L. Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress;

M. Any sign placed on a utility pole, street sign post, traffic signal support, hydrant, bridge, tree, or aspect of public infrastructure located within a public street right-of-way, unless allowed in accordance with Section <>, Signs in Public streets Rights-of-Way;

N. Signage affixed to a stationary motor vehicle, boat, or trailer on a lot or site not occupied by the business being advertised. Nothing shall prohibit a motor vehicle, boat, or trailer with signage at a location while services are being provided at that location or where an employee of the business being advertised resides;

O. Signs with speakers intended for audio playback;

P. Unpainted plywood; and

Q. Use of vinyl or fabric material over or around a cabinet sign frame.

6.13.6. PROHIBITED SIGN LOCATIONS

A. In no instance shall a sign or sign support structure be located within the following areas:

01. Within a public street right-of-way, except as allowed in Section <>, Signs in Public Street Rights-of-Way;

02. Sight distance triangles, unless required by NCDOT;

03. Required open space set-asides; or

04. Within a public utility or drainage easement.

B. Nothing shall limit the placement of a sign or sign support structure within a required zoning district setback, provided it complies with the applicable standards in this section and does not interfere with landscaping materials required by Section<>, Landscaping and Screening, or with required access and on-site circulation.

6.13.7. PROVISIONS APPLICABLE TO ALL SIGNS

A. SIGN PERMIT REQUIRED

01. Unless exempted by Section <>, Exemptions, or included in Section <>, Signs not Subject to Sign Permit, all signs, including temporary signs, shall require issuance of a Sign Permit in accordance with Section <>, Sign Permit, prior to construction, installation, revision, or display.

02. Some signs may also require building and electrical permits in accordance with the State Building Code.

B. SIGNS NOT SUBJECT TO SIGN PERMIT

01. The following sign types shall not be required to obtain a Sign Permit, but shall comply with all applicable requirements in this section and this Ordinance:

a. The placement of one or more incidental signs, subject to the applicable standards in Section <>, Sign Standards by Sign Type;

b. The placement of temporary signs, subject to the applicable standards in Section <>, Sign Standards by Sign Type;

c. The placement of sidewalk signs, subject to the applicable standards in Section <>, Sign Standards by Sign Type;

d. Public art, subject to the standards in Section <>, Art Installation; and

e. Political signs, when placed in accordance with NCGS§136-32.

02. Failure to comply with the standards for these sign types shall be a violation of this Ordinance subject to the provisions in Chapter 7, Violations.

C. SIGNS IN PUBLIC STREET RIGHTS-OF-WAY

01. GENERALLY

No sign shall be permitted within a public street right-of-way except in accordance with Section <>, Signs Allowed in the Right-of-Way.

02. SIGNS ALLOWED IN THE RIGHT-OF-WAY

a. Only the following signs may be permitted in a public street right-of-way:

i. Governmental signage erected by the Town of Mills River;

ii. Signage erected by NCDOT;

iii. Emergency warning signage erected by a governmental agency, public utility, or contractor performing work within the right-of-way;

iv. Awning signs, flags, and projecting signs, subject to the standards in Section <>, Sign Standards by Sign Type.

v. Political signs within the street right-of-way of a street maintained by the NCDOT, during election season, in accordance with NCGS§136-32, but located at least three feet away from the edge of pavement; and

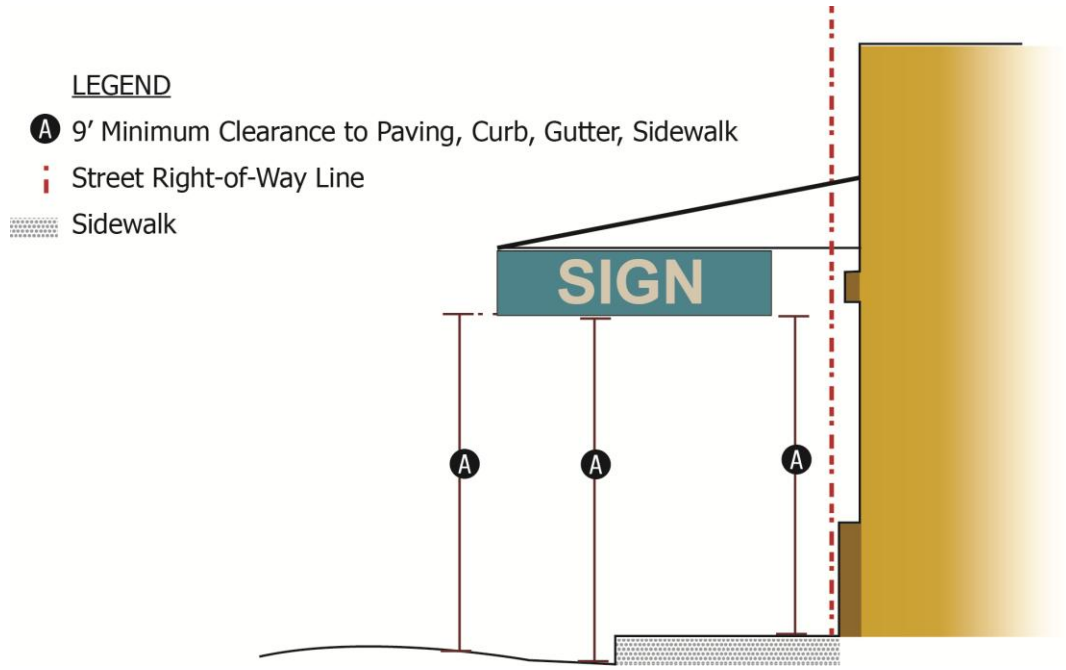
vi. Allowable farm signs in accordance with NCGS§136-32(b1), provided such signs are located at least three away from the edge of pavement.

b. Unless specifically identified as allowable in sub-section (a) above, temporary signs, incidental signs, directional signs, or other kinds of signage shall not be permitted within a public street right-of-way.

c. Signs permitted within a public street right-of-way shall maintain a minimum vertical clearance of at least nine feet above the paving, curb, gutter, sidewalk, or grade, as appropriate (see Figure <>, Minimum Vertical Clearance).

d. In the event the establishment or realignment of a public street results in an existing sign becoming wholly or partially within the right-of-way in violation of these standards, the sign shall be removed at the expense of the person or agency establishing or realigning the public street.

FIGURE <>: MINIMUM VERTICAL CLEARANCE



03. REMOVAL OF ILLEGAL SIGNS IN PUBLIC RIGHTS-OF-WAY AND ON PUBLIC PROPERTIES

a. The Planning Director or a designee may remove any sign placed on public property or within any public right-of-way in violation of this Ordinance.

b. Signage determined to be in violation of this Ordinance and removed from public property or a public right-of-way shall be discarded.

c. Signage located within, but not allowed within a public street right-of-way, shall be considered abandoned and may be disposed of immediately.

d. Penalties may be levied for each such illegal sign as prescribed in Chapter 7, Violations.

e. The Town shall not enforce the prohibition of signage located within a private street right-of-way.

D. CHANGEABLE COPY

Areas devoted to changeable copy on a sign shall be subject to the following standards:

01. Changeable copy areas may only be located on pole signs, wall signs, or electronic message boards;

02. No more than 50 percent of the sign face area may be devoted to changeable copy area;

03. As a means of avoiding distractions for drivers, bicyclists, and pedestrians, the display of changeable copy shall not change more than once per minute;

04. Outdoor advertising signs shall not include areas devoted to changeable copy; and

05. Signage copy shall not be animated, and shall not blink, scroll, flash, or have other moving effects. This provision shall not restrict the copy from changing from one message to another where such changes are allowed by this Ordinance.

E. ILLUMINATION

Where authorized, signs may only be illuminated in accordance with the following standards:

01. GENERALLY

a. Illuminated signs shall obtain a Building Permit and be configured in accordance with State Building Code, applicable electric code, and the adopted fire code.

b. All wiring to freestanding signs constructed or modified after (*insert the effective date of this Ordinance*), shall be located underground.

02. INTERNAL ILLUMINATION

a. Internally illuminated signs are permitted on lots within the MXR district but shall be prohibited within all other residential districts.

b. Nothing shall require a pre-existing internally illuminated sign lawfully-established prior to (*insert the effective date of this Ordinance*), to be removed if the lot it faces becomes used solely for residential purposes.

03. INDIRECT OR EXTERNAL ILLUMINATION

a. All external or indirectly illuminated signs shall be properly shielded so as to illuminate only the face of the sign and shall not shine directly into or create glare on a right-of-way or residential use.

b. Indirect or externally illuminated signs shall comply with the standards in Section <>, Maximum Illumination Levels.

04. FLASHING OR INTERMITTENT LIGHTS PROHIBITED

a. Flashing, scrolling, or intermittent lights are prohibited.

b. Sign illumination shall not vary in degrees of brightness or intensity unless reduced at dusk or during nighttime hours.

F. STRUCTURAL CONFIGURATION

All signs and sign supporting structures shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in the current State Building Code.

G. MAINTENANCE REQUIRED

01. All signs and sign supports shall be maintained in good repair.

02. In the event a sign or sign support is poorly maintained or becomes unsafe, the Planning Director shall notify the sign owner of the condition in writing, and the sign owner shall take whatever action is required to maintain public safety.

03. Failure to correct the unsafe condition is a violation of this Ordinance and shall be subject to the remedies in Section <>, Remedies.

H. REMOVAL OF DILAPIDATED OR OBSOLETE SIGNS

01. DILAPIDATED SIGNS

a. Dilapidated signs shall be removed or repaired by a landowner or other responsible party in accordance with the requirements described in a notice of violation by the Planning Director.

b. An existing sign shall be considered dilapidated if it:

i. Is in disrepair or exhibits a state of being broken or neglected;
ii. Fails to maintain its form as originally constructed or permitted;
iii. Fails to perform its intended function;
iv. Suffers from support pole or structural failure;
v. Has borders that are falling off or are already removed;
vi. Has panels that are missing or that have fallen off;
vii. Has its message falling off or in a state of disrepair such that it cannot be interpreted by the motoring public; or
viii. Is overgrown by vegetation.

02. OBSOLETE SIGNS

a. Signs serving business establishments that are no longer in operation shall be removed from the premises within 180 days from the date of termination of operation.

b. Lawfully-established nonconforming signs in place prior to or after (*insert the effective date of this Ordinance*) shall lose their nonconforming status, and be subject to removal in cases where two or more years have lapsed since there was an active use of the building or site where the nonconforming sign is located. Nonconforming signage may be moved or re-established in accordance with NCGS§160D-912.1 provided such re-establishment takes place within two years of the date the sign was removed, rendered nonconforming, or when active use of the lot or site stopped.

c. For the purposes of this sub-section, removal of a sign shall mean:
i. The removal of the entire sign including all supports and mounting hardware; or
ii. The removal of the just the sign's face.

d. The decision as to whether the entire sign is removed or just the sign face is removed shall be at the discretion of the landowner. Failure to provide a decision to the Town may result in Town action in accordance with Section <>, Failure to Remove Signage.

e. In cases where the entire sign is removed, all sign supports, sign framework, mounting hardware, or similar features shall also be removed.

f. In cases where only the sign face is removed, all internal elements, internal frameworks, wiring, or mounting hardware associated with the sign face shall be obscured from view by fully covering them with painted plywood, rigid plastic, or other permanent material that includes no copy or other embellishment. Coverings shall be of a neutral, non-reflective color. The plywood, rigid plastic, or other covering shall be mechanically attached to the sign support structure. In no instance shall fabric, vinyl, or other non-permanent material be used to obscure sign cabinets, framework, or mounting hardware.

03. FAILURE TO REMOVE SIGNAGE

Failure of an owner to remove an obsolete or dilapidated sign face or sign structure may result in removal of the sign face or sign structure at the owner's expense following provision of written notice to the owner by the Planning Director.

04. INSPECTION

If, through inspection, the Planning Director determines that a sign or sign supporting structure does not comply with the provisions of these regulations, the Town shall take action in accordance with the standards in Chapter 7, Violations.

I. PUBLIC ART AS SIGNAGE

01. Painted or printed murals or other forms of public art shall not be considered as signage subject to these standards in cases where the art or mural does not incorporate a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or artwork. Public art shall be subject to the standards in Section <>, Art Installation.

02. Public art or murals that incorporate a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or public art shall be considered as wall signage subject to the applicable standards in this section.

J. POLITICAL SIGNS

Political signage is permitted, during election season, in accordance with the standards in this Ordinance and NCGS§136-32.

6.13.8. SIGN MEASUREMENT

A. SIGN FACE AREA DETERMINATION

01. The sign face area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, including incidental or changeable copy signage, frames, display of identification or licensing officially required by any governmental body, and structural elements.

02. The supporting structure for a sign shall not be included within the calculation of the sign face area unless otherwise indicated in this Ordinance.

03. In the case of signs mounted back-to-back, only one side of the sign is to be included in the calculation of sign face area. Otherwise, the face area of each sign is to be separately computed.

04. When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

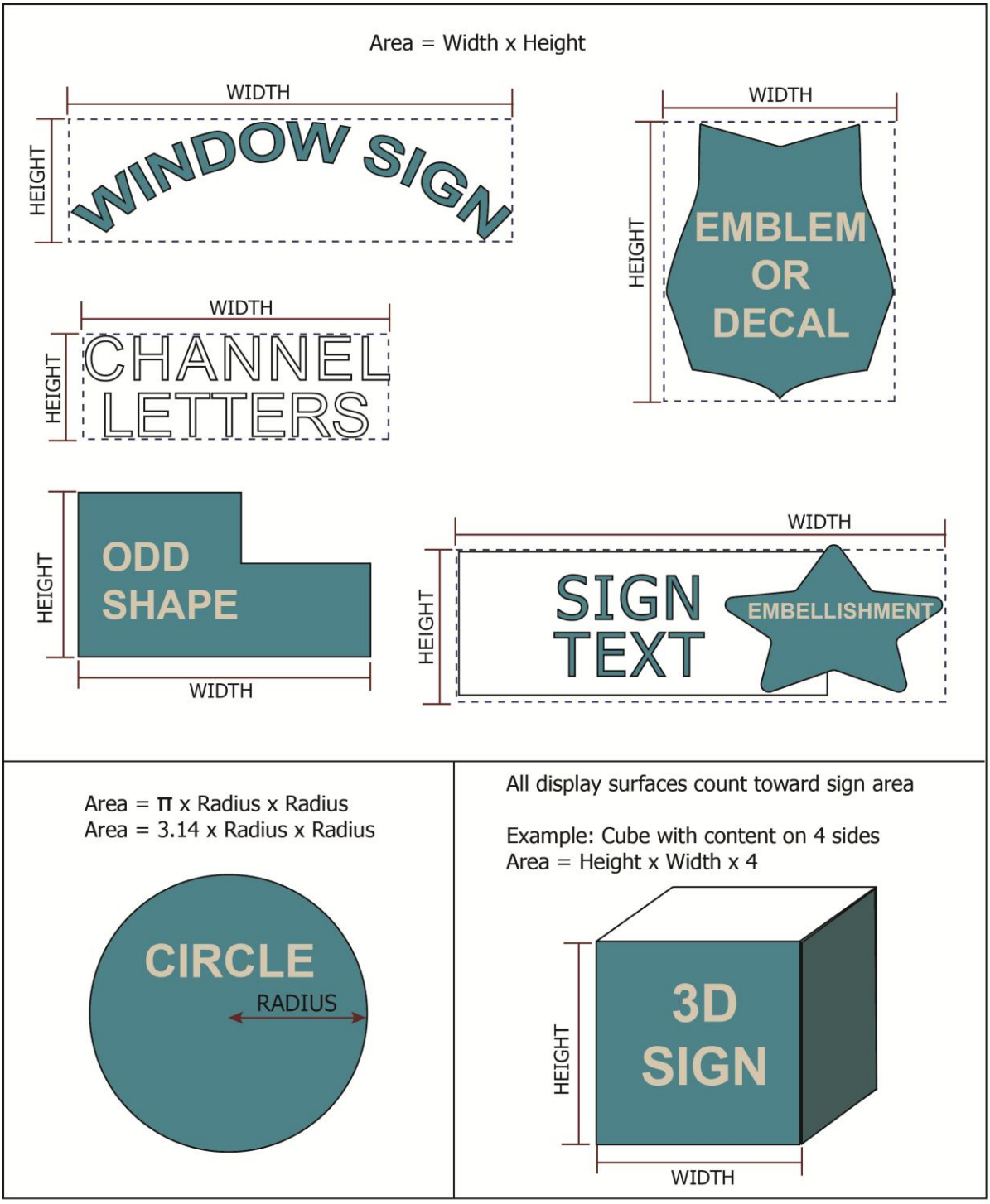
05. For multi-faced signs, the sign area shall be computed by summing the area of all sign faces.

06. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in the computation of sign face area.

07. Embellishments such as display portions of signs extending outside the primary sign face area, incidental signage, changeable copy, or supplemental signage affixed to or included on a sign or sign support structure shall be computed as part of the total face area of the sign, unless otherwise indicated in this Ordinance.

08. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign face area.

FIGURE <>: SIGN FACE AREA DETERMINATION

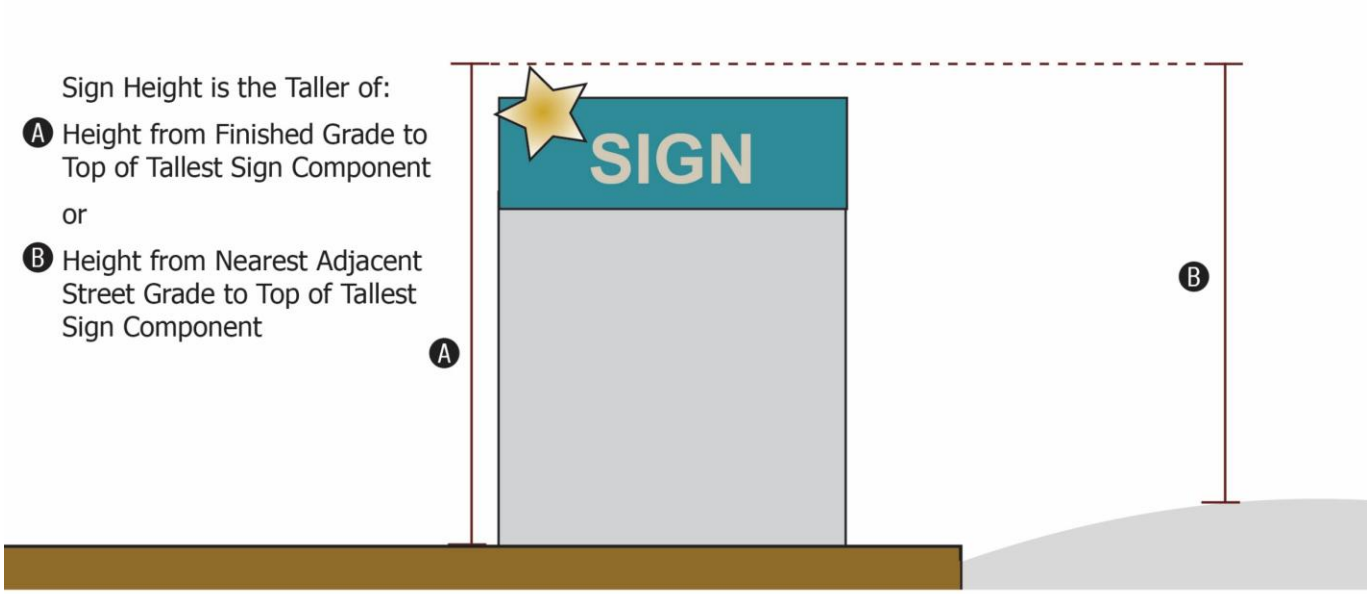


B. SIGN HEIGHT DETERMINATION

01. Sign height shall be computed as the distance from the base of the sign at the finished grade or from the nearest adjacent street grade to which the sign is oriented and on which the lot has frontage, whichever is higher, to the top of the highest component of the sign.

02. The finished grade shall be the grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

FIGURE <>: SIGN HEIGHT DETERMINATION



C. WALL AREA (FOR THE PURPOSES OF SIGN AREA MEASUREMENT)

For the purposes of determining allowable sign area, a wall is the vertical exterior surface of a building, the area of which shall be determined as follows:

01. The area of all parallel vertical surfaces along a single building elevation regardless of offsets shall be counted as one wall. This includes wall surfaces that are parallel or approximately parallel that may be located in front of or behind the primary façade plane.

02. The front of each unit of a multiple tenant building shall be counted as a separate wall.

03. In cases where a single tenant occupies two or more individual tenant spaces in a multiple tenant building, the tenant shall only be permitted one wall sign. Calculation of the wall area for the purposes of sign area measurement shall include all the units occupied by the tenant. In cases where the total number of tenant spaces being rented is in question, determination of the total number of tenant spaces shall be made in accordance with Section <>, Determination.

04. The area of an angled wall surface shall be counted as part of whichever adjoining wall surface it is most parallel with.

05. A 45-degree angled wall may be counted as part of the area of either adjoining wall, but not as a part of both.

FIGURE <>, WALL AREA DETERMINATION FOR WALL SIGNAGE

LEGEND

One Wall

A Area of Parallel Vertical Surfaces Along a Single Building Elevation, Regardless is One Wall

B Front of Each Unit of a Multi Tenant Commercial Building is One Wall

C Area of An Angled Wall Surface is Part of the Adjoining Wall Surface it is Most Parallel With

D 45 Degree Angled Wall May Count as Part of Either Adjoining Wall, But Not Both

6.13.9. SIGN STANDARDS BY SIGN TYPE

The following section sets out the standards applicable to each sign type regulated by this Ordinance.

A. AWNING SIGNS

01. DEFINITION

A sign that is part of or attached to an awning, canopy, or other protective canvas, plastic, or metal cover affixed to a building and located over a door, entrance, window, or other outdoor area. Colors, stripes, or patterns on an awning's surface shall not be considered as signage. Stand-alone canopies shall not be considered as awnings, and signs on canopies shall be subject to the standards for wall signs.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
No	No	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF AWNING SIGNS PER LOT	1 per every ten linear feet of building façade facing a street [1]
MAXIMUM HEIGHT	Under the roof or top of a parapet wall [2]
MAXIMUM SIGN FACE AREA PER INDIVIDUAL AWNING SIGN	25 percent of the awning area upon which it is located, including the drip flap, if provided
MAXIMUM SIGN FACE AREA OF ALL AWNING SIGNS PER LOT	5 percent of the corresponding building façade [1]
NOTES:	[1] Signage on umbrellas or shade structures associated with an outdoor dining area are not counted as awning signs and are exempted from the awning sign number and face area standards. [2] Awning signs attached to a building shall maintain a minimum height of at least nine feet above grade.

04. ADDITIONAL REQUIREMENTS

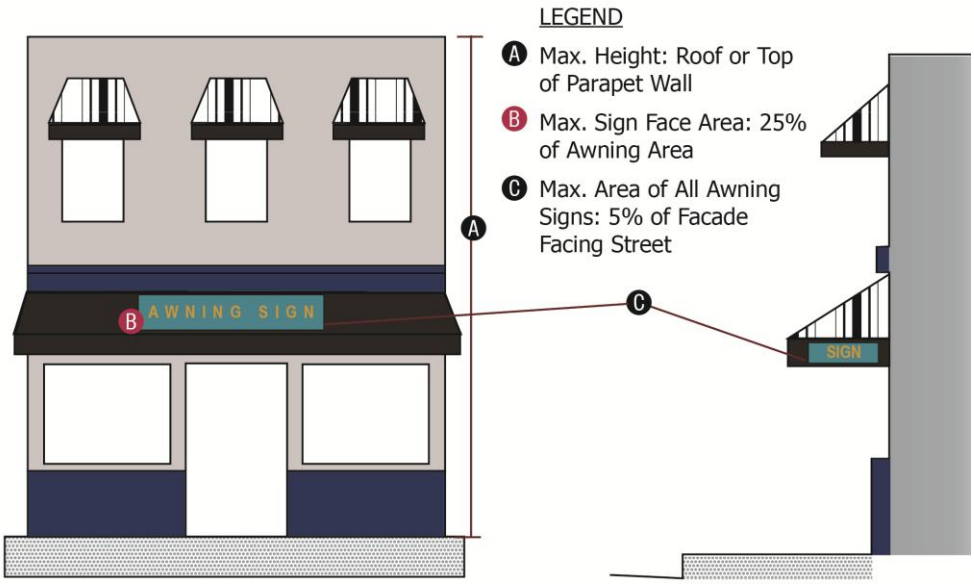
a. Signage may be located on the drip flap, subject to the maximum sign face area standards.

b. No awnings above the 1st building story may be internally illuminated.

c. Awning signs, when allowed within a street right-of-way, shall not project more than five feet into a right-of-way, nor closer than two feet from the edge of pavement.

d. An awning sign may only be established on a lot with a principal structure.

05. SAMPLE CALCULATION



EXAMPLE:
Total Awning Area of Lower Awning = 90 sf
Total Area of Facade Facing Street = 600 sf

Max. Awning Sign Area on Lower Awning = 25% x 90 = **22.5 sf**
Max. Area of All Awning Signs: 5% x 600 sf = **30 sf**

B. BANNER SIGNS

01. DEFINITION

A sign made of a flexible fabric or plastic material that is affixed to a building or other vertical projection, except utility poles, but is not an awning sign or a flag. Feather flags and bow signs are not banners and are prohibited by this Ordinance.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	No

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF BANNERS PER LOT	1 per use or non-residential tenant in a multi-tenant building [1]
MAXIMUM MOUNTING HEIGHT	Below the roof or parapet [2]
MAXIMUM SIGN FACE AREA PER INDIVIDUAL BANNER	20 square feet [3]
MAXIMUM BANNER LENGTH	10 linear feet
MAXIMUM BANNER WIDTH	4 linear feet
MINIMUM SETBACK	10 feet from the edge of pavement or minimum necessary to avoid placement within a street right-of-way [4]
MAXIMUM DURATION	One occurrence for a maximum duration of 30 consecutive days per use or tenant per calendar year
NOTES:	[1] Maximum of 3 banners per multi-tenant development at any one time. [2] When located on a fence, wall, or as a freestanding banner, a maximum height of 12 feet to the highest point. When located on a building wall, the banner shall not be mounted above the first floor. [3] The maximum sign face area for all banners within a non-residential multi-tenant development at any one time shall be limited to 40 square feet. [4] Banners in a unified development subject to a single site plan shall be at least 10 feet from the outside perimeter boundary of the development.

04. ADDITIONAL REQUIREMENTS

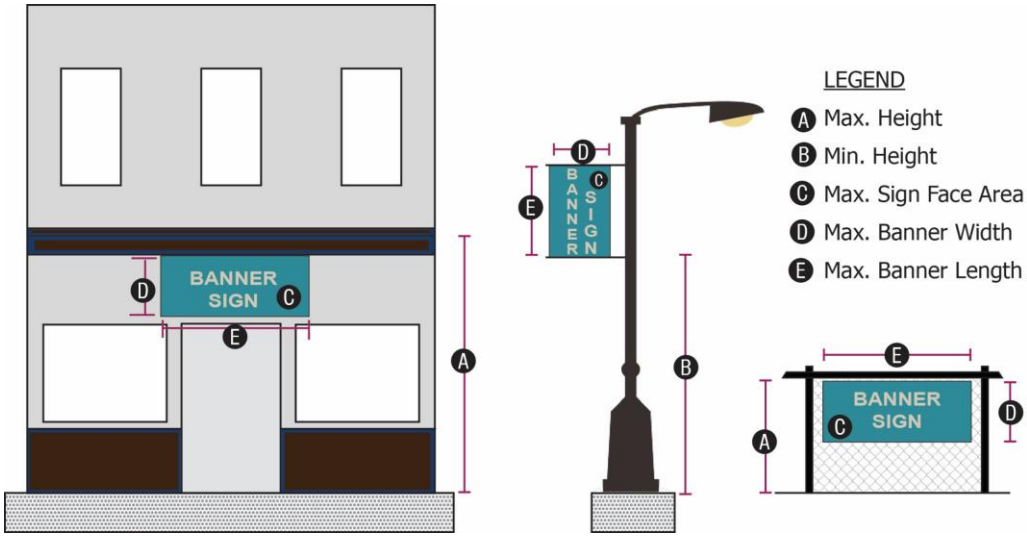
a. Banners shall be adequately secured through the use of grommets, d-rings, brackets, or similar fastening devices.

b. Banners over 9 square feet in size shall incorporate wind slits.

c. Banners shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.

d. Except for open air uses of land, a banner may only be established on a lot with a principal structure.

05. SAMPLE CALCULATION



C. FLAGS

01. DEFINITION

A piece of cloth or similar material, typically rectangular or square in shape, that is attached to a pole or rope along the shorter side of the material. The national flag of the United States of America, the North Carolina State Flag, flags flown by a governmental agency, flags located on land owned or operated by a governmental agency, or flags on a building owned or operated by a governmental agency are exempt from these standards. Flags affixed to two or more poles at the same time are subject to the standards for banners. Feather flags and bow signs are prohibited.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF FLAGS PER LOT	3
MAXIMUM FLAGPOLE HEIGHT	40 feet above grade or 40 feet above the highest point of a building if building-mounted [1]
MAXIMUM NUMBER OF FLAGS PER FLAG POLE	2
MAXIMUM SIZE PER FLAG	60 square feet
MINIMUM SETBACK FROM ANY LOT LINE FOR A FLAGPOLE OR OTHER MOUNTING DEVICE	The height of the flagpole or mounting device if building-mounted
NOTES:	[1] In cases where a flag projects out into a street right-of-way, the flag shall maintain a minimum vertical clearance of 18 feet above the street pavement and 9 feet above a sidewalk.

04. ADDITIONAL REQUIREMENTS

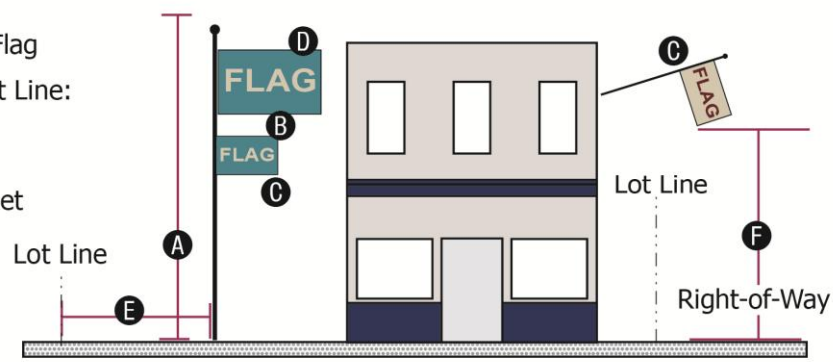
a. Flags and flagpoles shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.

b. Except on lots in residential districts, flags on poles shall be located no more than 10 feet from the front building line.

05. SAMPLE CALCULATION

LEGEND

- A Max. Height: 40′ or 40′ Above Highest Point of Building if Mounted
- B Max. Flags per Pole: 2
- C Max Flags Per Lot: 3
- D Max. Size: 60 sf per Flag
- E Min. Setback from Lot Line: Height of Flagpole or Mounting Device
- F If Projecting into Street Right-of-Way, Min. Vertical Clearance: 18′ Above Street; 9′ Above Sidewalk



D. INCIDENTAL SIGNS

01. DEFINITION

Any small or nondescript sign that only provides directional information or safety information for the public. Examples of incidental signs include signs addressing on-site traffic circulation (such as "entrance" or "exit" signs), public safety (such as "high voltage" or "beware of dog" signs), or address signs.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	Yes

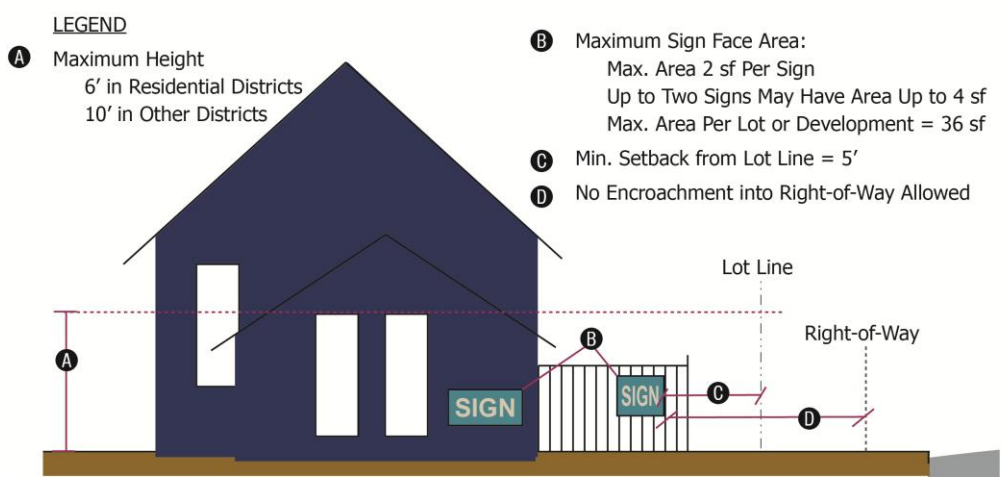
03. DIMENSIONAL STANDARDS [1]

MAXIMUM NUMBER OF INCIDENTAL SIGNS PER LOT	Lots with an existing single-family detached dwelling or manufactured home	1 per principal + 1 per secondary building
	Lots with a townhouse, duplex, triplex, or quadplex dwelling unit	1 per dwelling unit
	Multi family dwelling	1 per building + 5
	Lots in a mixed-use or non-residential district	[2]
MAXIMUM HEIGHT	6 feet for lots in residential districts; 10 feet for lots in mixed-use and non-residential districts [3]	
MAXIMUM SIGN FACE AREA	2 square feet per sign [4]	
TOTAL INCIDENTAL SIGN FACE AREA PER MIXED-USE OR NONRESIDENTIAL LOT OR DEVELOPMENT		36 square feet
MINIMUM SETBACK FROM ANY LOT LINE		5 feet [5]
NOTES:	[1] Incidental signs that exceed the maximum height or sign face area shall be considered as a wall sign, monument sign, pole sign, or projecting sign, as appropriate. [2] See total incidental sign face area per mixed-use or non-residential lot or development. [3] Sign height shall be determined based on the grade adjacent to the sign. [4] Up to two incidental signs on any single lot may be up to four square feet in sign face area size. [5] In no instance shall an incidental sign be located within a right-of-way, a sight distance triangle, or in locations that obstruct the safe movement of vehicles and pedestrians	

04. ADDITIONAL REQUIREMENTS

a. No Sign Permit shall be required for the establishment of incidental signs, but all incidental signage shall comply with the standards in this section.

05. SAMPLE CALCULATION



E. MONUMENT SIGNS

01. DEFINITION

Any sign, other than a pole sign, that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground. Monument signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Monument signs may also be referred to as "pedestal" signs or "ground" signs. Any sign with an opening between the bottom of the sign's face area and ground or where the sign face area is wider than the sign support structure shall be considered as a pole or "freestanding" sign. Monument signs are not mounted to a building wall, and are not located within a street right-of-way. Monument signs located at the entrances to subdivisions are referred to as "subdivision signs."

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
No	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF MONUMENT SIGNS PER LOT	1 [1]	
MAXIMUM HEIGHT [2]	6 feet for lots in residential districts; 10 feet for lots in all other districts [3] [4]	
MAXIMUM SIGN FACE AREA [2] [5]	Lots in RUR, LDR, RCZ	32 sf per sign
	Lots in other allowable districts	40 sf per sign
MINIMUM SETBACK FROM ANY LOT LINE	5 feet [6]	
MIN. SEPARATION BETWEEN MONUMENT SIGNS ON SAME LOT	At least 250 feet apart at the closest point	
MIN. SEPARATION BETWEEN MONUMENT SIGNS ON ADJACENT LOTS	50 feet [7]	

NOTES:

[1] Developments on corner lots of 2 acres in size or greater may have a monument sign for each roadway frontage.

[2] The following features may be excluded from the calculation of maximum sign height and maximum sign face area:

a. The first 36 inches in height of a sign's base when it is surrounded by evergreen shrubs configured as a fully opaque screen.

b. Architectural embellishments along the side of the sign support structure, such as columns, pilasters, coping, or vertical design features with a maximum width of up to 1 foot, provided such embellishments do not include advertising copy.

c. Architectural embellishments along the top of the sign support structure, such as caps, cornices, coping, eaves, or horizontal design features with a maximum height of up to 1 foot, provided such embellishments do not include advertising copy.

[3] Sign height shall be determined based on the higher of: the adjacent grade level or the lowest grade level of the adjacent street.

[4] The support structure shall be included within the measurement of the sign's maximum height.

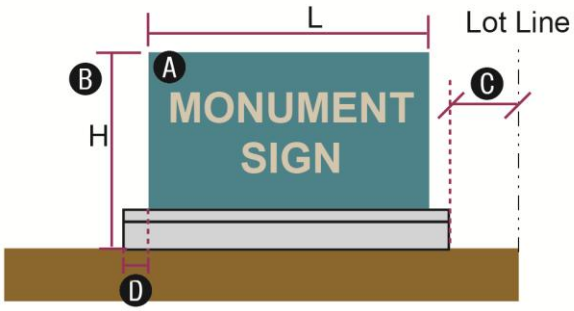
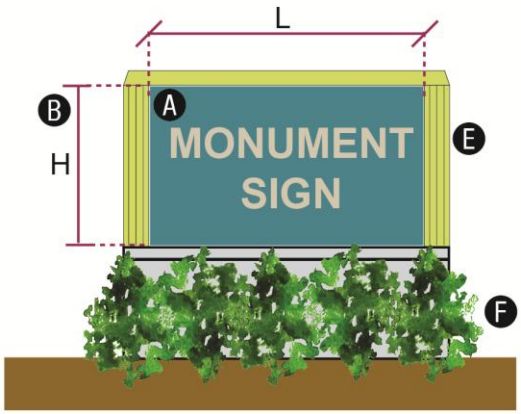
[5] May be increased by 125% for signs included in a Uniform Sign Plan.

[6] All portions of a monument sign shall be at least 10 feet from the edge of street paving.

[7] In cases where a monument sign is proposed and it is impossible to meet the minimum separation distance requirements from another existing monument sign, the proposed sign shall maintain the minimum street setback necessary to ensure an unimpeded view of the existing monument sign on an adjacent lot.

Continued on the following page

E. MONUMENT SIGNS CONTINUED

04. ADDITIONAL REQUIREMENTS	a. Establishment of a new monument sign on a lot with an existing pole sign shall require removal of the existing pole sign prior to or concurrent with establishment of the monument sign.
	b. Monument signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
	c. A monument sign base may project outwards beyond the edge of the sign face or architectural embellishment by up to six inches on the front, rear, and each side of the sign.
	d. In no instance shall the depth of a monument sign, including the sign base, architectural embellishments, and the sign face area exceed four feet.
	e. Except in the MXR or RUM districts, monument signs shall not be located on the same lot as a single-family detached, townhouse, duplex, triplex, or quadplex dwelling.
	f. A monument sign face area may be comprised of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).
	g. Except for open air uses of land, a monument sign may only be established on a lot with a principal structure.
05. SAMPLE CALCULATION	LEGEND A Maximum Sign Face Area = LxH: 32 sf in RUR, LDR, RCZ; 40 sf Elsewhere (May Increase by 125% with Uniform Sign Plan) B 6′ Max. Height in Residential District; 10′ in Other Districts C 5′ Minimum Setback from Lot Line (Must be at least 10′ from Edge of Street Pavement) D 6″ Max. Foundation Base Extension E Allowable Architectural Embellishment F Evergreen Shrubs Forming Opaque Screen  

F. POLE SIGNS

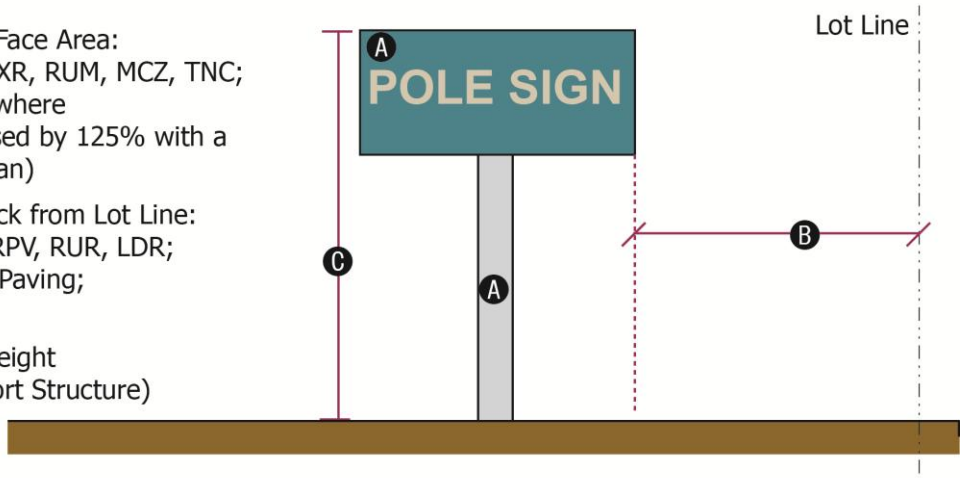
01. DEFINITION	Any sign attached directly to the ground by means of one, two, or more poles, uprights, or other vertical bracing systems where there is open space between the bottom of the sign face area and the ground. Pole signs advertise products or services offered on the site where the sign is located. Pole signs may also be referred to as "freestanding" signs or "pylon" signs. Any sign with no opening between the bottom of the sign's face area and ground shall be considered as a monument or "ground" sign. Pole signs are not attached to buildings, and are not located within public street rights-of-way. Outdoor advertising signs advertise products, services, or concepts not associated with the site where they are located.

02. DISTRICTS WHERE PERMITTED	CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
	No	No	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS		
MAXIMUM NUMBER OF POLE SIGNS PER LOT		1 per street frontage
MAXIMUM HEIGHT		20 feet [1] [2]
MAXIMUM SIGN FACE AREA [3]	Lots in MXR, RUM, MCZ, and TNC districts	40
	Lots in other allowable districts	80
MINIMUM SETBACK FROM ANY LOT LINE		5 feet [4] [5]
MIN. SEPARATION BETWEEN POLE SIGNS ON SAME LOT		At least 250 feet apart at the closest point
MIN. SEPARATION BETWEEN POLE SIGNS ON ADJACENT LOTS		50 feet [6]
NOTES:	[1] Sign height shall be determined based on the higher of: the adjacent grade level or the lowest grade level of the adjacent street. [2] The support structure shall be included within the measurement of the sign's maximum height. [3] May be increased by 125% for signs included in a Uniform Sign Plan. [4] Pole signs shall be setback at least 15 feet from a lot line shared with a CON, RPV, RUR, or LDR district. [5] All portions of a pole sign shall be at least 10 feet from the edge of street paving. [6] In cases where a pole sign is proposed and it is impossible to meet the minimum separation distance requirements from another existing monument sign, the proposed sign shall maintain a deeper minimum street setback necessary to ensure an unimpeded view of the existing pole sign on an adjacent lot.	

Continued on the following page

F. POLE SIGNS CONTINUED

04. ADDITIONAL REQUIREMENTS	a. Establishment of a new pole sign on a lot with an existing monument sign shall require removal of the existing monument sign prior to or concurrent with establishment of the pole sign.
	b. Pole signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
	c. A pole sign face may project outwards beyond the edge of the pole or architectural support by up to six inches on the front, rear, and each side of the sign.
	d. In no instance shall the depth of a pole sign, including the poles, architectural supports, and the sign face area exceed four feet.
	e. A pole sign face area may be comprised of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).
	f. Except for open air uses of land, a pole sign may only be established on a lot with a principal structure.
05. SAMPLE CALCULATION	LEGEND A Maximum Sign Face Area: 40 sf max. in MXR, RUM, MCZ, TNC; 80 sf max. Elsewhere (may be increased by 125% with a Uniform Sign Plan) B Minimum Setback from Lot Line: 15′ from CON, RPV, RUR, LDR; 10′ from Street Paving; 5′ Elsewhere C 20′ Maximum Height (Includes Support Structure) 

G. PROJECTING SIGNS

01. DEFINITION

Any sign that projects outward from a building's exterior wall where the sign face area is not parallel to the building wall upon which is mounted. Projecting signs are also referred to as "marquee" signs. Signs mounted to a building wall with sign face areas that are parallel to the building wall are considered "wall" signs. A sign comprised of fabric or similar material is a "flag" or a "banner" sign.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
No	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF PROJECTING SIGNS PER LOT	One per building façade; one per tenant in a multi-tenant building [1]
MAXIMUM HEIGHT	10 feet [2] [3]
MAXIMUM SIGN FACE AREA	16 square feet [4]
MAXIMUM PROJECTION FROM BUILDING WALL	4 feet
MINIMUM SETBACK FROM ANY LOT LINE	A projecting sign shall not encroach into a required yard by more than 6 feet [5]

NOTES:

[1] Projecting signs are not permitted on building facades that also contain a wall sign.
[2] A projecting sign shall not project above the height of the wall it is mounted to
[3] Any projecting sign that projects into a right-of-way or that projects over a sidewalk or vehicular accessway shall maintain a minimum clearance of at least 9 feet above grade.
[4] Projecting signs with 3 sides may have up to 24 square feet of sign area.
[5] A projecting sign shall not project into a right-of-way by more than 36 inches, and shall maintain a minimum of two feet of horizontal distance from the edge of the pavement of an abutting street.

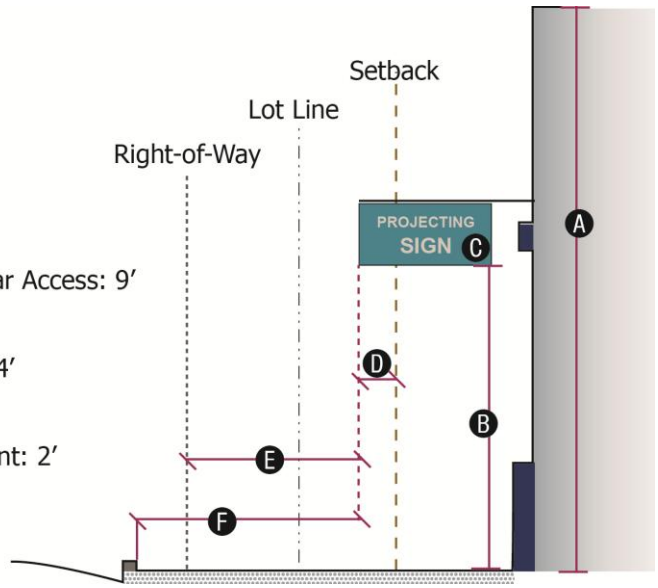
04. ADDITIONAL REQUIREMENTS

a. Projecting signs of 2 square feet in total sign area or less shall be considered incidental signs.
b. Any electrical wiring shall be located within the sign or the wall it is affixed to.
c. Projecting signs shall not be located on the same lot as a single-family detached, townhouse, duplex, triplex, or quadplex dwelling.
d. A projecting sign may only be established on a lot with a principal structure.

05. SAMPLE CALCULATION

LEGEND

- A Max. Height: 10′
- B Min. Clearance Over Sidewalk or Vehicular Access: 9′
- C Max. Sign Face Area: 16 sf
- D Max. Encroachment into Required Yard: 4′
- E Max. Projection into Right-of-Way: 36″
- F Minimum Distance from Edge of Pavement: 2′



H. SIDEWALK SIGNS

01. DEFINITION

A pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of the non-residential or mixed use being advertised. Sidewalk signs are also referred to as "A-frame" signs or "Board" signs. The sign shall be self-supporting and only visible during operating hours. Sidewalk signs are configured with a broader base then a top or are equipped with supports to ensure they remain stable in normal wind conditions.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
No	Yes	Yes	Yes	No

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF SIDEWALK SIGNS PER LOT	1 per street frontage, regardless of the number of tenants [1] [2]
MINIMUM CLEARANCE AROUND SIDEWALK SIGN	5 feet [3] [4]
MAXIMUM HEIGHT	4 feet
MAXIMUM SIGN FACE AREA	8.5 square feet
MAXIMUM NUMBER OF SIDEWALK SIGN SIDES	2
MAXIMUM DISTANCE FROM PRIMARY ENTRANCE OF USE BEING ADVERTISED	25 linear feet
NOTES:	[1] Sidewalk signs may only be permitted on a sidepath or on-site pedestrian walkway, but shall not be located within a public or private street right-of-way. [2] Nothing shall limit the rotating of different sidewalk signs on an individual lot provided the total number of signs does not exceed the maximum. [3] A sidewalk sign may only be placed in a manner that allows for unrestricted pedestrian access around all sides of the sign, and shall not be located within a disabled pedestrian access ramp, proximate to an accessible parking space, or within a sight distance triangle. [4] A sidewalk sign shall be no closer than 6 inches from the edge of the roadway pavement.

04. ADDITIONAL REQUIREMENTS

a. No Sign Permit shall be required for the establishment of sidewalk signs, but all sidewalk signs shall comply with the standards in this section.

b. A sidewalk sign shall not be permanently attached to the sidewalk, signs, street trees, landscaping, bicycle rack, or any other fixtures on the sidewalk.

c. Each sidewalk sign shall be removed each day by the close of business.

d. Sidewalks signs may include changeable copy.

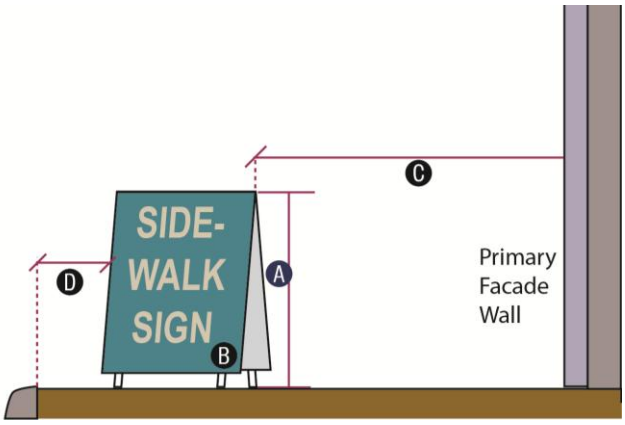
e. Sidewalks signs shall not be illuminated.

f. Except for open air uses of land, a sidewalk sign must be associated with an adjacent principal structure.

05. SAMPLE CALCULATION

LEGEND

- A Maximum Height = 4'
- B Maximum Sign Face Area = 8.5 sf
- C Minimum Clearance = 5'
- D Min. Distance from Pavement = 6"



I. SUBDIVISION SIGNS

01. DEFINITION

A monument sign located at the entrance to a subdivision consisting of three or more lots. Subdivision signs shall be located outside all street rights-of-way, unless permitted by the Planning Director, and shall not be located on a lot with a principal building.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF SUBDIVISION SIGNS PER DEVELOPMENT	1 per development entrance
MAXIMUM HEIGHT	6 feet [1]
MAXIMUM SIGN FACE AREA	32 square feet [2] [3]
MINIMUM SETBACK FROM ANY LOT LINE	None
MINIMUM SETBACK FROM RIGHT-OF-WAY	5 feet
NOTES:	[1] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street. [2] The support structure for a subdivision sign configured as a monument sign shall not be included with the calculation of the maximum allowable sign face area. [3] Developments with 2 or more entries may have up to 64 square feet of subdivision sign provided that no single entry has a subdivision sign with a sign face area exceeding 32 square feet.

04. ADDITIONAL REQUIREMENTS

a. Subdivision signs may only be configured as a monument sign.

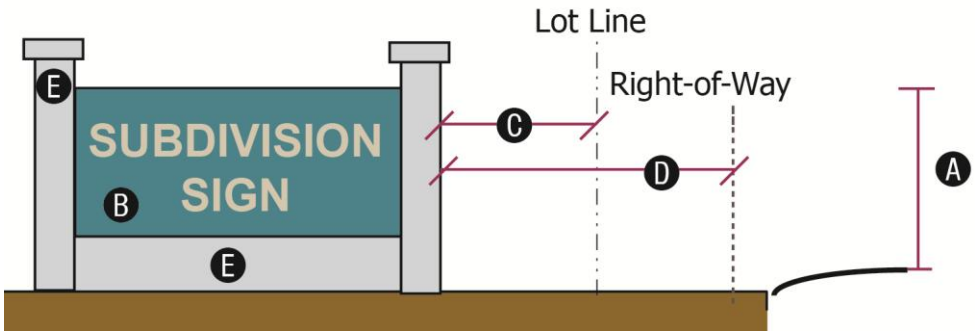
b. Subdivision signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.

c. Subdivision signs that are illuminated shall comply with the applicable limitations on glare in Section <>, Exterior Lighting.

05. SAMPLE CALCULATION

LEGEND

- A 6′ Maximum Height
- B Maximum Sign Face Area = 32 sf (Support Structure Not Counted as Sign Area)
- C No Min. Setback from Lot Line
- D Minimum Setback from Right-of-Way = 5′
- E Sign Supporting Structure



J. SUSPENDED SIGNS

01. DEFINITION

A sign that is suspended from the underside of a principal building's overhang or canopy that is intended for view by pedestrians or patrons already on a site. The sign may be parallel or perpendicular to the building wall. A sign that is not suspended from a canopy or overhang of a building is not a suspended sign. A sign mounted on a building wall parallel to the wall is a "wall sign." A sign mounted on a building wall perpendicular to the building wall is a "projecting" sign. Signs visible through a window are "window signs."

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF PROJECTION SIGNS PER DEVELOPMENT	1 per lot or 1 per tenant in a multi-tenant building
MAXIMUM MOUNTING HEIGHT	Below the roof or parapet [1]
MAXIMUM SIGN FACE AREA	4 square feet; 6 square feet in the TNC district
MINIMUM SETBACK FROM ANY LOT LINE	[2]
NOTES:	[1] Any suspended sign that projects into a right-of-way or that projects over a sidewalk, walkway, or vehicular accessway shall maintain a minimum clearance of at least 9 feet above the grade or the walkway. [2] A suspended sign shall maintain a minimum of two feet of horizontal distance from the edge of the pavement.

04. ADDITIONAL REQUIREMENTS

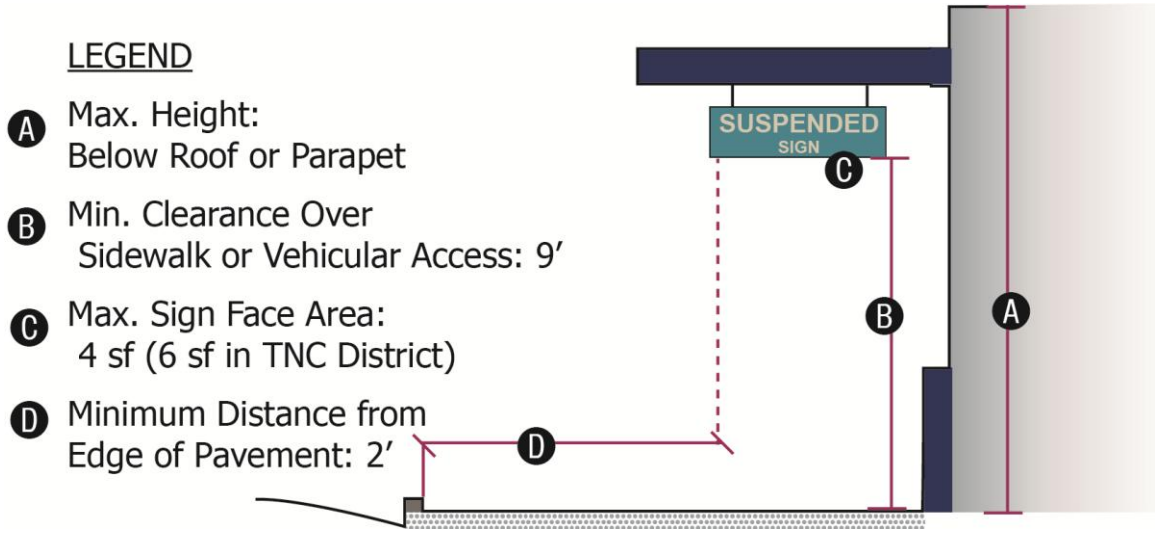
a. Suspended signs shall not project beyond the canopy or overhang they are mounted to.

b. Suspended signs shall be flush mounted or drop mounted with metal pipe, chain, wire, or other comparable material and permanently affixed to the overhang or canopy where mounted.

c. Suspended signs shall not be mounted to a secondary structure.

d. A suspended sign may only be established on a lot with a principal structure.

05. SAMPLE CALCULATION



K. TEMPORARY SIGNS

01. DEFINITION

Any sign that is not permanently affixed to the ground or a building which can be removed without special handling. A temporary sign is made from materials and/or is installed in ways that are intended to be temporary or impermanent. There are no temporal or duration limits on how long a temporary sign may be in place on a lot. Each lot may maintain up to two temporary signs meeting these standards 365 days per year. Signs made of fabric or other material that moves and are permanent are "flags." Signs made of fabric or other material that moves and are intended to be in place for a limited duration are "banners." Signs visible through a window are "window signs."

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

MAXIMUM NUMBER OF TEMPORARY SIGNS PER LOT	2 per lot or development site (including multi-tenant sites)	
MAXIMUM SIGN HEIGHT [1]	Residential Districts	6 feet
	All Other Districts	10 feet
MAXIMUM SIGN FACE AREA	Residential Districts	6 square feet
	All Other Districts	32 square feet
MINIMUM SETBACK	10 feet from the edge of pavement or minimum necessary to avoid placement within a public street right-of-way [3]	
NOTES:	[1] Sign support structures shall be included in maximum sign height and face area. [2] Signs in a unified development shall be at least 10 feet from the outside perimeter boundary of the development	

04. ADDITIONAL REQUIREMENTS

a. No Sign Permit shall be required for the establishment of temporary signs, but all temporary signage shall comply with the standards in this section.

b. Temporary signs shall not be located within a street right-of-way.

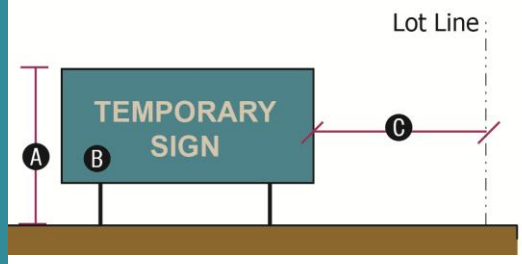
c. Temporary signs may not be illuminated.

d. Temporary signs shall not block windows or doors.

05. SAMPLE CALCULATION

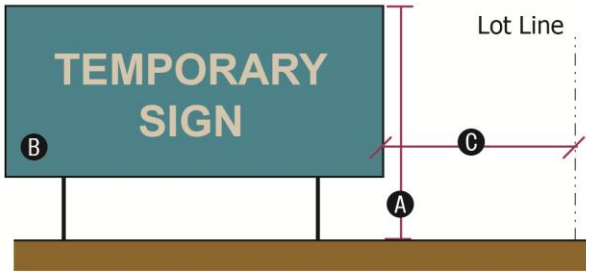
In Residential Districts

- A Maximum Height = 6′
- B Maximum Sign Face Area = 6 sf
- C Min. Setback from Lot Line = 10′



In Nonesidential Districts

- A Maximum Height = 10′
- B Maximum Sign Face Area = 32 sf
- C Min. Setback from Lot Line = 10′



L. WALL SIGNS

01. DEFINITION

Any sign, other than a projecting sign, that is mounted to or painted on an exterior building wall. Wall signs have only one sign face and are configured to be parallel to the building wall upon which they are located. Signs mounted perpendicular to a wall are "projecting" signs. Signs mounted from the ceiling of a building's canopy or overhang are "suspended" signs. Signs made of fabric or other material that moves are "banners" or "flags." Signs visible through a window are "window" signs.

02. DISTRICTS WHERE PERMITTED

CON, RPV	RUR, LDR, RCZ	MXR, RUM, MCZ, TNC	GLC, CCZ	IND, ICZ
Yes	Yes	Yes	Yes	Yes

03. DIMENSIONAL STANDARDS

DISTRICT	TYPE OF TENANCY	TYPE OF FAÇADE [1]	MAX. # OF SIGNS	TOTAL SIGN AREA/FAÇADE [2]
CON, RPV, RUR, LDR, RCZ	All	Primary [3]	1	16 square feet
ALL OTHER DISTRICTS	Single-tenant [4]	Primary	2	Greater of: 1.5 sf per linear foot of building façade or 200 sf
	Single-tenant [4]	Secondary	1	Greater of: 1 sf per linear foot of building façade or 150 sf
	Multi-tenant	Primary	1/tenant	Greater of: 1.5 sf per linear foot of building façade or 200 sf
	Multi-tenant	Secondary	1/tenant [5]	Greater of: 1 sf per linear foot of building façade or 150 sf
	Large format retail	Primary	4	Greater of: 1.5 sf per linear foot of building façade or 200 sf
	Large format retail	Secondary	2	Greater of: 1 sf per linear foot of building façade or 150 sf

MAXIMUM MOUNTING HEIGHT	No wall sign shall extend above, below, or beyond the building wall to which it is attached [6]
MAXIMUM DISTANCE FROM A BUILDING CORNER OR MULTI-TENANT BOUNDARY	Wall signs shall be no less than 6 inches from the outside corner of a building wall or from the boundary of a tenant's wall frontage on a multi-tenant building
MINIMUM SETBACK FROM ANY LOT LINE	Same as the building [7]
MAXIMUM PROJECTION OUTWARDS FROM MOUNTING WALL	18 inches

NOTES:

[1] See Section <>, Non-Residential Building Walls Distinguished, for building façade type determination.
[2] This is the total amount of allowable wall sign face area per façade of a single-tenant or a large format retail building, regardless of the number of individual wall signs on the façade. It is also the total amount of allowable wall sign face area per individual tenant wall frontage in a multi-tenant building (see Section <> Sign Measurement, for determination of individual tenant wall frontage).
[3] Wall signs not permitted on tertiary building facades.
[4] Does not include large format retail establishments.
[5] End units in a multi-tenant building may have a wall sign on a primary and secondary building façade.
[6] Wall signs that project into a right-of-way shall maintain a minimum vertical clearance of at least 9 feet above grade.
[7] Wall signs shall not project into a public street right-of-way by more than six inches.

Continued on the following page

L. WALL SIGNS CONTINUED

04. ADDITIONAL REQUIREMENTS

a. No wall sign shall be located in a manner that covers or blocks ingress or egress from a door, window, or fire escape.

b. Any electrical wiring shall be located within the sign or the wall it is affixed to.

c. Wall signs on secondary building walls abutting a residential use shall not be illuminated.

d. Wall signs that are illuminated shall comply with the applicable limitations on glare in Section <>, Exterior Lighting.

e. A wall sign face area may consist of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).

f. A wall sign may only be established on a lot with a principal structure.

g. No wall signs are permitted on building facades that contain a projecting sign.

05. SAMPLE CALCULATION

A Max. Height: Height of Building

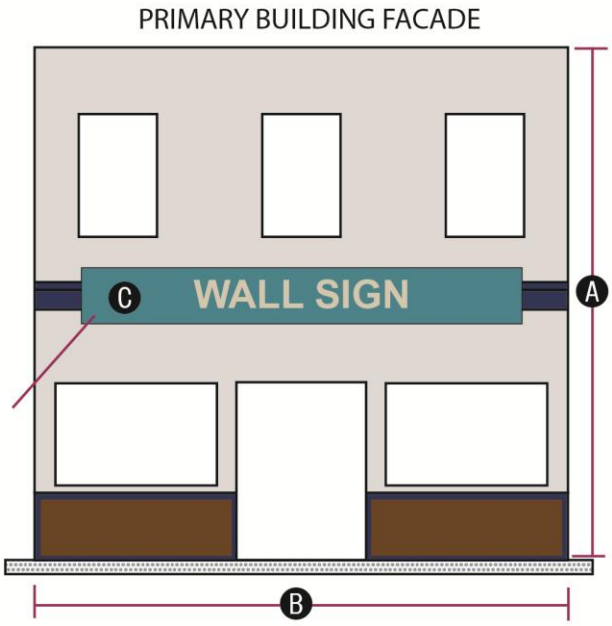
B Primary Facade Length

C Max. Sign Face Area:

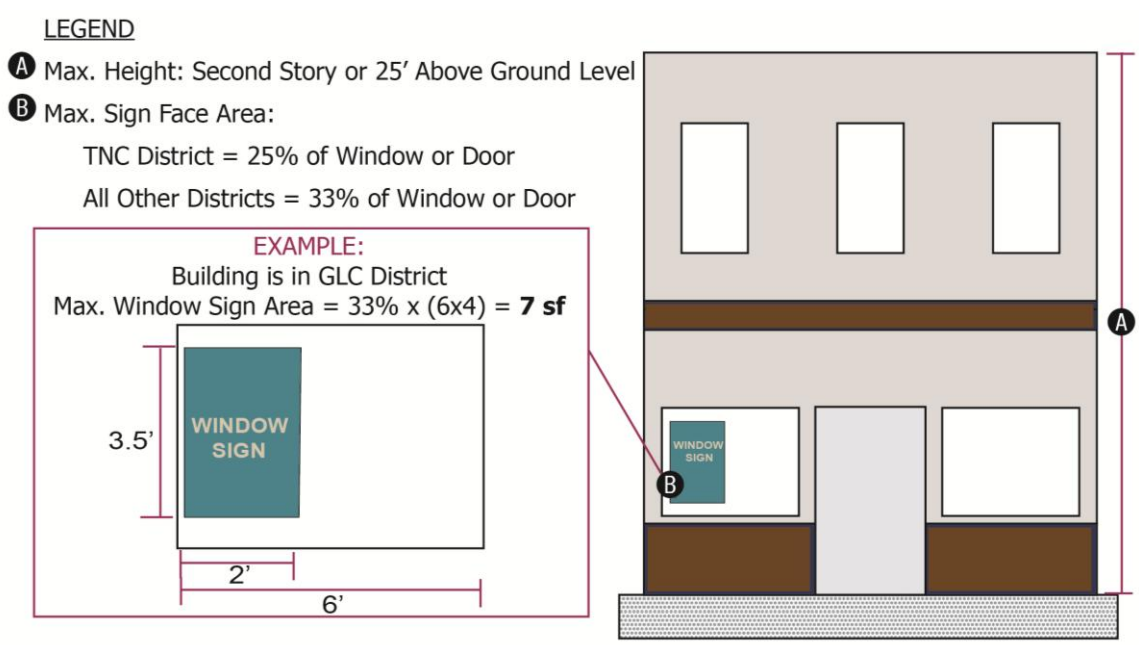
16 sf Residential Districts

All Other Districts = Greater of: 1.5 sf area per linear foot of facade or 200 sf on primary building facade; + Greater of: 1 sf area per linear foot of facade or 150 sf on secondary or building facades

EXAMPLE:
Building is in TNC District
30' Primary Facade Length
Max. Wall Sign Area = 30 x 1.5 = **45 sf**



M. WINDOW SIGNS

01. DEFINITION	A sign affixed to or visible through the surface of a window or glass door that is intended to be visible to the public from outside the building. Signs painted on glass and etched or frosted glass that includes text or symbols shall be considered as a window sign. Signs not visible from off-site areas are exempt from these standards. Signs mounted to a building's exterior wall are "wall" signs.				
02. DISTRICTS WHERE PERMITTED	**CON, RPV**	**RUR, LDR, RCZ**	**MXR, RUM, MCZ, TNC**	**GLC, CCZ**	**IND, ICZ**
	No	No	Yes	Yes	Yes
03. DIMENSIONAL STANDARDS	**MAXIMUM NUMBER OF WINDOW SIGNS PER DEVELOPMENT**		No limit, subject to the maximum sign face area standards		
	MAXIMUM MOUNTING HEIGHT		Window signs are not permitted above the second story or higher than 25 feet above ground level		
	MAXIMUM SIGN FACE AREA [1]		TNC District	25% of the outer extent of any single window or door [2]	
			All Other Districts	33% of the outer extent of any single window or door [2]	
	NOTES:	[1] Groups of multiple windows or doors within six inches of one another on the same building façade shall be considered as one window or door for the purposes of sign face area calculation. [2] Window signs shall not be located or configured in ways that prevent patrons operating doors safely.			
04. ADDITIONAL REQUIREMENTS	a. Up to six square feet of window signage may be illuminated per lot or tenant in a multi-tenant building.				
	b. Material used to block views into a vacant building (such as brown paper) is not considered to be a window sign.				
	c. Blinds, shades, or curtains bearing symbols or text that is visible from off-site areas shall be considered to be a window sign subject to these standards.				
	d. A window sign may only be established on a lot with a principal structure.				
05. SAMPLE CALCULATION					

6.13.10. UNIFORM SIGN PLAN

See Section <>, Sign Permit, for application and plan requirements for a Uniform Sign Plan.

§ 6.14 SEDIMENTATION AND STORMWATER

6.14.1. SOIL EROSION AND SEDIMENTATION CONTROL[29]

A. PURPOSE AND INTENT

The purpose of these standards is to protect public health, safety, and welfare by minimizing the adverse impacts of stormwater runoff from land-disturbing activities on natural resources, public infrastructure, and adjacent properties. These regulations are intended to reduce erosion, sedimentation, flooding, and water-quality degradation associated with construction and site development. Specifically, these standards are intended to:

01. Prevent erosion and sedimentation during land-disturbing activities by requiring appropriate temporary and permanent measures to control soil loss, stabilize disturbed areas, and prevent sediment from escaping the development site;

02. Manage stormwater runoff during construction in a manner that protects downstream properties and infrastructure, reduces localized flooding, and minimizes adverse changes in runoff volume, velocity, and direction resulting from development; and

03. Ensure compliance with applicable State requirements, including the Sedimentation Pollution Control Act of 1973.

B. APPLICABILITY

The standards in this section shall apply to:

01. All new development or redevelopment that disturbs more than one acre of land area during construction; and

02. New development or redevelopment that disturbs less than one acre of land area but that is part of a larger common plan of development that exceeds one acre in area.

C. EXEMPTION

Development or redevelopment identified in Section <> Applicability, may only be exempted from these standards when subject to a sealed and signed report from a professional engineer licensed in North Carolina indicating that the proposed development is not subject to the standards in this section and the reason(s) for this determination.

D. STANDARDS

01. SEDIMENTATION CONTROL PLAN REQUIRED

Development subject to these standards shall be the subject of a Soil Erosion and Sedimentation Control Plan prepared by an individual qualified to prepare such plans that has been submitted to the appropriate State agency for review.

02. APPROVAL FROM THE SEDIMENTATION COMMISSION OR OTHER APPROPRIATE AGENCY

Prior to issuance of a Zoning Compliance Permit, or Building Permit, as appropriate, an applicant shall furnish evidence of approval of a Soil Erosion and Sedimentation Control Plan by the NC Sedimentation Commission or other or appropriate agency, or shall provide proof of exemption in accordance with Section <>, Exemption.

03. GENERAL REQUIREMENT

[29] NOTE: All local governments in NC are subject to the Sedimentation Pollution Control Act of 1973, which mandates erosion control and sedimentation standards be adopted and administered by local governments. Local governments may either become delegated to draft and administer their own rules for erosion control and sedimentation, or they may rely on the State's Sedimentation Commission rules and standards. Henderson County is a delegated authority for erosion control and sedimentation, and administers its erosion control standards in unincorporated and all incorporated areas in the County...except Mills River. Section 153.067 of the Town's current Subdivision ordinance sets out the standards for sedimentation and erosion control. These standards are carried forward but supplemented with additional provisions. The Town, not the Sedimentation Commission (nor the County if conditions change in the future and the County administers its erosion control measures) will be responsible for administering these additional provisions.

Land disturbance and development activity subject to these standards shall take place in accordance with the latest version of the North Carolina Department of Environmental Quality's Erosion and Sediment Control Design Manual, which may be obtained from the Energy, Mineral, and Land Resources Division's portion of the NCDEQ website.

04. SILTATION FENCING

a. Land disturbance subject to these standards shall include the establishment of siltation fencing around the perimeter of land disturbance, a silt fence outlet designed to allow stormwater to exit the site without suspended sediment, and inclusion of a temporary gravel construction entrance if the site does not already have a permanent accessway.

b. Siltation fencing shall be established prior to any land disturbance.

c. Siltation fencing, configured in accordance with these standards shall remain in place until after issuance of a Certificate of Compliance or a Certificate of Occupancy, as appropriate.

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

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

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

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

05. SEDIMENTATION WITHIN ROADSIDE DRAINAGE FACILITIES

a. New development and land disturbing activity subject to these standards shall ensure that no sediment or other site materials or debris collect within roadside swales and ditches adjacent to the lot or development site.

b. In the event new development or land disturbing activity results in the deposition or accumulation of sediment or other development-related materials within a roadside swale or ditch, the responsible party shall ensure that the roadside ditch or swale has been returned to its pre-construction or land disturbance condition along the full frontage of the lot.

c. Failure to remove sediment or other development or land disturbance-related debris from the full frontage of the lot or development site shall be a violation of this Ordinance.

d. Any repairs to a roadside swale or ditch shall be accomplished in accordance with the Town's requirements.

6.14.2. STORMWATER

A. STANDARDS APPLICABLE IN THE WSPO

Development located within the Water Supply Watershed Protection Overlay (WSPO) district shall be subject to the stormwater standards in Section <>, Stormwater Runoff Control Requirements.

B. STANDARDS APPLICABLE IN HILLTOP AND HILLSIDE AREAS

Development subject to the standards in Section <>, Hilltop and Hillside Protection, shall provide stormwater dispersal mechanisms in accordance with Section <>, Stormwater Dispersal.

§ 6.15 SUBDIVISION DESIGN

The purpose of this section is to establish standards for the subdivision of land and extension of public infrastructure in the Town's planning jurisdiction. More specifically, this section is intended to:

A. Provide for the orderly growth and development of the Town;

B. Maintain conditions essential to the public's health, safety, and welfare;

C. Facilitate the further re-subdivision of larger tracts into smaller parcels of lands and individual lots, where appropriate;

D. Coordinate the provision of streets within and contiguous to proposed subdivisions;

E. Provide for the dedication or reservation of rights-of-way, and easements, in accordance with State law and the Town's adopted policy guidance; and

F. Ensure lots and public infrastructure are configured in ways that ensure public safety, easy maintenance, and good planning practice.

6.15.2. APPLICABILITY

Unless exempted in accordance with Section <>, Exemptions, any division of land consistent with the definition of a subdivision in Section <>, Terms Defined, that is located within the Town or is the subject of a Development Agreement to become part of the Town's planning jurisdiction at some point in the future shall comply with the requirements of this section, the standards in Chapter 6, Standards, and the relevant application procedures in Chapter 2, Applications.

6.15.3. EXEMPTIONS

The following divisions of land shall be exempt from these subdivision standards:

A. Exempt subdivisions in accordance with Section <>, Exempt Subdivision;

B. Family subdivisions in accordance with Section <>, Family Subdivision; and

C. Court-ordered subdivisions that comply with Chapter 29 of the North Carolina General Statutes.

6.15.4. APPROVAL AND RECORDATION OF PLATS REQUIRED

A. No subdivision of land within the Town's planning jurisdiction, as defined in Section <>, Terms Defined , shall occur, and no lot or parcel created by such division of land may be conveyed or developed unless the division complies with the standards of this Ordinance as well as the applicable standards in Section <>, Limited Subdivision, Section <>, Minor Subdivision, or Section <>, Preliminary Plat, and Section <>, Final Plat, as appropriate.

B. Subdivisions of land subject to these standards shall be recorded in the office of the Henderson County Register of Deeds following approval of the plat by the Town.

C. The owner of land or an authorized agent shall sign a statement on the plat prior to recordation that states whether or not all the land shown on the plat is within the Town.

D. No subdivision plat of land within the Town that is subject to these standards shall be filed or recorded until it has been approved by the Town in accordance with this Ordinance.

E. The Henderson County Register of Deeds shall not file or record a subdivision plat for land located within the Town's planning jurisdiction without evidence that the division has been approved by the Town, or is not subject to this Ordinance.

6.15.5. INFRASTRUCTURE

Subdivisions including infrastructure, as defined in Section <>, Terms Defined, including sidewalks, sidepaths, and greenways shall comply with all applicable standards in Chapter 6, Standards.

6.15.6. LANDSCAPING

Subdivisions shall be subject to the applicable standards for perimeter buffers and streetscape landscaping in Section <>, Landscaping and Screening.

6.15.7. OPEN SPACE

Preliminary and Final Plats shall comply with the open space and park standards in Section <>, Open Space Set-Aside and Parkland Dedication.

6.15.8. LOT CONFIGURATION

All lots shall be configured in accordance with the standards in Section <>, Required Lot Configuration, or Section <>, Special Purpose Lots, as applicable.

6.15.9. MONUMENTS

Monuments shall be included as part of any subdivision, and shall be configured in accordance with the Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, and the following:

A. Markers shall be set at all lot corners, points of curvature, points of tangency, and at all points with a change in bearings; and

B. The location and type of all markers used shall be indicated on the Final Plat.

6.15.10. REASONABLE RELATIONSHIP

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable relationship to the need for public facilities attributable to the new development.

6.15.11. SCHOOL SITE RESERVATIONS

A. When a Preliminary Plat application is submitted for approval and a school site is identified on the site in the Town's or the County's adopted policy guidance, the school site shall be reserved and the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval.

B. In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.

C. Before the Final Plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivider shall reserve a school site of a size and location agreeable to the Board of Education and the Planning Director.

D. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of the reservation and develop the area in accordance with the subdivision procedure and provisions of this Ordinance.

6.15.12. SUBDIVISION NAME

Every subdivision shall be given a name that shall not duplicate or be similar to that of any other subdivision existing or previously planned within the Town's planning jurisdiction or Henderson County. All subdivision names shall be in accordance with Henderson County Property Addressing requirements.

§ 6.16 TREE PROTECTION

6.16.1. PURPOSE AND INTENT

This section is proposed to ensure that the Town's planning jurisdiction includes areas of mature tree canopy cover during and after development. These standards are further intended to:

A. Promote sequestration of carbon dioxide through the retention of existing trees on lots or the re-establishment of new trees as part of the development process;

B. Protect species diversity and habitat through the establishment of connected or linked areas of tree canopy;

C. Encourage the retention of existing trees during the development process through accelerated credit towards Ordinance requirements; and

D. Establish tree protection requirements for trees voluntarily proposed for retention during the development process.

6.16.2. APPLICABILITY

Unless exempted in accordance with Section <>, Exemptions, the standards in this section shall apply to new development in the Town's planning jurisdiction.

6.16.3. EXEMPTIONS

The following activities are exempt from the standards of this section:

A. Activity on a bona fide farm;

B. Tree removal associated with normal forestry activity that is conducted:

- **01.** On land taxed on the basis of its present-use value as forestland pursuant to Chapter 105, Article 12 of the North Carolina General Statutes; or
- **02.** In accordance with a forest management plan prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes;

C. Development or redevelopment within the TNC zoning district;

D. Construction of an individual single-family detached dwelling on its own lot;

E. Construction of an individual two-family dwelling on its own lot;

F. The removal of diseased trees posing a threat to adjacent healthy trees;

G. The removal of invasive species of trees, provided the removal results in the complete removal of the trees including roots;

H. The selective and limited removal of trees or vegetation necessary to obtain clear visibility within required sight distance triangles;

I. The removal of trees that the Planning Director determines to be a hazard to traffic or that interfere with the provision of utility lines or public services; and

J. The removal of trees as necessary for rescue in an emergency or for clean-up following a natural disaster.

6.16.4. RETENTION OR RE-ESTABLISHMENT OF TREE CANOPY REQUIRED

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

A. MINIMUM PERCENTAGE OF EXISTING TREE CANOPY COVER TO BE RETAINED

- **01.** Existing trees shall be retained on a lot or site at a rate sufficient to ensure that at least 15 percent of the lot or total site area is covered by existing tree canopy cover at the time of development approval.

02. For the purposes of this section, "existing tree canopy cover" shall mean the percentage of a lot or tract's total area located beneath the canopy (leaves or needles) of existing, healthy, non-invasive trees prior to development or land disturbing activity. The area to be occupied by required street rights-of-way, required public utility easements, and water surface areas are excluded from a lot or tract's total area. Only those trees meeting or exceeding the minimum size at time of planting requirements in Section <>, Plant Material Specifications, shall be considered as part of the existing tree canopy cover.

B. MINIMUM PERCENTAGE OF TREE CANOPY COVER TO BE RE-ESTABLISHED

01. As an alternative to compliance with the tree canopy cover retention requirements in sub-section (A) above, an applicant for development subject to these standards may remove all or a portion of the existing trees on a lot or site, provided that the lot or site is replanted with replacement trees during the development process at a rate sufficient to ensure that at least 25 percent of the lot or total site area is covered by tree canopy cover at tree maturity.

02. The area to be occupied by required street rights-of-way, required utility easements, and water surface areas are excluded from a lot or tract's total area.

03. Trees planted in accordance with these standards shall be at least three inches in caliper at time of planting.

04. Except for trees located within parking lot landscaping islands, or those associated with site screening, trees of three inches in caliper or greater that are provided in order to comply with the standards in Section <>, Landscaping and Screening, shall be credited towards these requirements.

C. DETERMINATION OF TREE CANOPY COVER

01. EXISTING TREE CANOPY COVER TO BE RETAINED

Compliance with the standards in Section <>, Minimum Percentage of Existing Tree Canopy to be Retained, shall be determined in accordance with the following procedure:

a. The extent of the existing tree canopy to be retained shall be determined in accordance with Section <>, Tree Canopy Cover Determination.

b. The Planning Director may require an applicant to provide a square footage number associated with the tree canopy cover area in cases where aerial photography is used to identify the existing tree canopy coverage to be retained.

c. The total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas is then divided by the size of the retained tree canopy cover area.

d. The product of the calculation shall equal or exceed 15 percent of the lot or site area. In the event the product of the calculation does not equal or exceed 15 percent of the lot or site area, then the applicant shall also be required to plant additional trees in accordance with Section <>, Minimum Percentage of Tree Canopy Cover to be Re-established, at the minimum rate necessary to equal or exceed 15 percent of the lot or site area.

02. TREE CANOPY COVER TO BE RE-ESTABLISHED

Compliance with the standards in Section 6.16.4.B, Minimum Percentage of Tree canopy Cover to be Re-established, shall be determined in accordance with the following procedure:

a. The applicant shall determine the total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas.

b. The total lot area shall be multiplied by 0.25 to determine the total square footage of the area to be covered by re-established tree canopy.

c. Canopy and understory trees shall be re-planted at the rate necessary to ensure that the total crown square footage of all newly planted trees at maturity meets or exceeds the total area required to be covered by re-established tree canopy.

d. The Site Plan, subdivision plat, or Concept Plan, as appropriate shall depict the designated area to be covered by re-established tree canopy and the approximate placement of the trees that will be utilized to establish the canopy, along with their species.

e. Each newly planted tree shall be credited towards the total re-established tree canopy cover in accordance with Table <>, Re-established Tree Canopy Cover by Tree Type.

TABLE <>: RE-ESTABLISHED CANOPY COVER BY TREE TYPE

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

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

01. Trees retained or replanted in accordance with these standards shall be protected during the development process in accordance with Section <> Tree Protection During Construction.

02. Damage or removal of trees required by this section shall be subject to Section <>, Remedies for Removal.

6.16.5. TREE CANOPY COVER DETERMINATION

A. AERIAL PHOTOGRAPHY

01. The extent, location, and general characteristics of trees comprising a site's existing tree canopy cover shall be determined based on the following:

a. The most recent aerial photography of the site, as provided by The Town of Mills River, Henderson County, or other recognized source;

b. Prior aerial photographs in cases where tree clearing has taken place prior to application submittal; and

c. A diagram showing the site boundaries and the outer extent of the dripline of trees comprising the existing tree canopy cover prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer.

02. Nothing shall limit an applicant from preparing a tree survey in addition to or in lieu of aerial photography, provided the tree survey includes sufficient information for the determination of the extent, location, and general characteristics of the exiting tree canopy cover on a site.

B. TREE SURVEY

01. A tree survey shall be provided in cases where an applicant seeks to receive credit towards the landscaping requirements in Section <>, Landscaping and Screening, from existing retained trees. A tree survey shall be prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer, and shall identify all the following for each existing tree to be credited:

a. The exact location of the tree;

b. Species, by common name;

c. Whether the tree is evergreen or deciduous;

d. Whether the tree is an understory or canopy tree;

e. Size of the tree in DBH or caliper, as appropriate;

f. The approximate height of the tree;

g. The general health and approximate life stage (young, mature, or aged) of the tree; and

h. Any observations or special characteristics of the tree, as appropriate.

02. The tree survey will be used by the Planning Director to determine if the retained trees will meet the performance standards for the type of required landscaping. Supplemental plantings may be required in cases where the retention of trees is insufficient to meet landscaping performance objectives.

03. Tree surveys may be limited to only those portions of the site being used to meet landscaping requirements, and in no instance shall existing trees located outside the boundaries of required landscaping areas be used to meet the standards in Section <>, Landscaping and Screening.

6.16.6. TREE PROTECTION DURING CONSTRUCTION

A. RESPONSIBILITY

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

B. PROTECTIVE FENCING AND SIGNAGE

01. PROTECTIVE FENCING

a. Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree save areas (see Figure <>: Tree Protection Fencing). The Town shall consider existing site conditions and the species and size of the trees to be protected in determining the exact location of tree protective fencing and may require the fencing to be extended to include the critical root zones of trees. In no instance shall the area required to be located within protective fencing exceed the size of the required tree save area.

b. Tree save areas that are inaccessible to development activities or separated from development activities by a distance of at least 100 linear feet are exempted from the requirement for tree protection fencing.

c. Nothing shall prevent tree protection fencing and silt fencing from being consolidated.

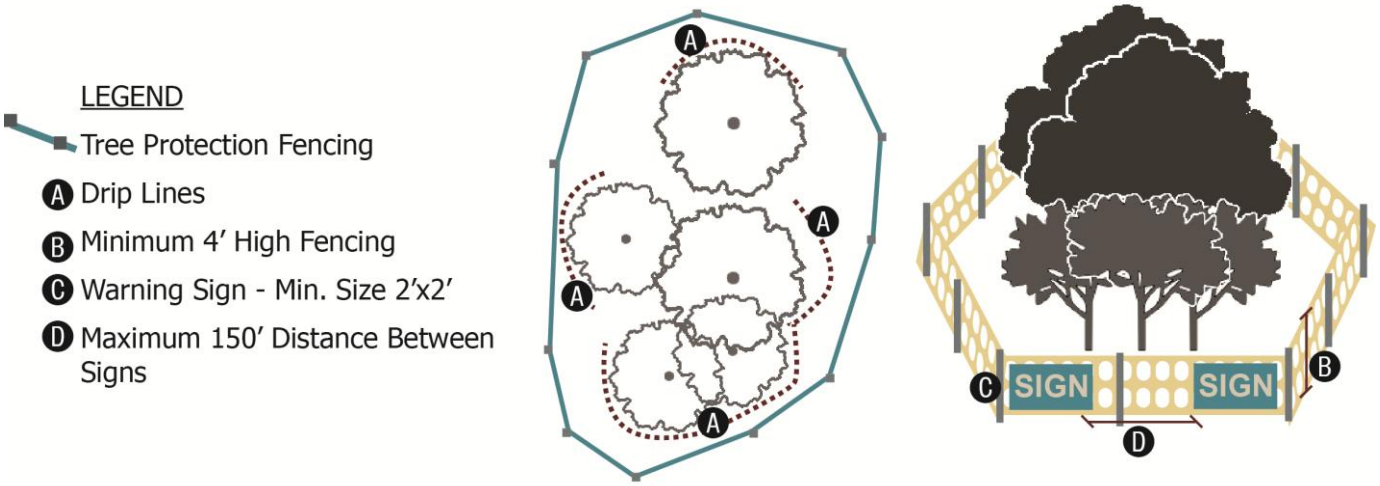
02. WARNING SIGN

Warning signs shall be installed along any required tree protective fencing at points no more than 150 feet apart. The signs shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall identify the fenced or marked area as a tree protection area and direct workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

03. DURATION OF PROTECTIVE FENCING OR SIGNAGE

Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a Certificate of Occupancy or other final approval.

FIGURE <>: TREE PROTECTION FENCING



C. TREE SAVE AREA REQUIREMENTS

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

01. No development activity—including grade changes, the operation or parking of heavy equipment, or the washing down of concrete or cement handling equipment, or the storage of fuel, chemicals, materials, supplies, or construction waste and debris—shall be allowed within the tree save area;

02. Any permitted clearing of vegetation within the tree save area shall be only by hand;

03. Retaining walls and drywells may be used to protect trees to be preserved from severe grade changes if venting, adequate to allow air and water to reach tree roots, is provided through any fill;

04. No structures or hard surfaces shall be located within a tree save area; and

05. Installation of fences and walls shall take into consideration the root systems of existing trees. Post-holes and trenches close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall end at the point where major large roots are encountered, and major roots shall be bridged.

6.16.7. CREDIT TOWARDS LANDSCAPING AND OPEN SPACE STANDARDS

A. Existing trees within a tree save area that coincides with a required landscaping area may be credited towards the landscaping requirements of this Ordinance in accordance with Section <>, Planting Flexibility.

B. Tree save areas shall be credited towards the passive recreation area requirements in Section<>, Open Space Set-Aside and Parkland Dedication.

6.16.8. REMEDIES FOR REMOVAL

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

A. REPLACEMENT TREES

01. RATE OF PROVISION

a. TREES WITHIN A DESIGNATED TREE SAVE AREA

i. Each existing tree that is removed in violation of this Ordinance shall be replaced with one or more trees with a minimum DBH of four inches each and a cumulative DBH equal to the DBH of the removed tree(s).

ii. Required replacement tree(s) shall be planted and maintained in accordance with the planting standards in Section <>, Plant Placement, and shall comply with all the standards in this sub-section.

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

i. In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to these standards, but where a tree save area has not yet been established, a reforestation plan prepared by a North Carolina registered forester or registered landscape architect shall be prepared and provided to the Town.

ii. The reforestation plan shall require new tree plantings throughout the area where existing trees were irreparably damaged or removed. The number and placement of replacement trees shall be located as necessary to result in a comparable density of trees at maturity as were removed.

iii. New vegetation identified in the reforestation plan shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina registered forester or registered landscape architect and agreed to by the Planning Director.

02. LOCATION OF REPLACEMENT TREES

a. TREES WITHIN A DESIGNATED TREE SAVE AREA

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

i. Inside a designated tree save area;

ii. Outside a designated tree save area but within the area of development;

iii. Away from an area of development but upon the same lot;

iv. On a different lot within the Town's planning jurisdiction but under the same ownership as the area of development;

v. On land owned by the Town; or

vi. Within a public right-of-way, subject to approval of the right-of-way owner.

b. TREES REMOVED PRIOR TO AN ESTABLISHED TREE SAVE AREA

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

03. GUARANTEED ESTABLISHMENT PERIOD

a. The applicant shall guarantee the survival and health of all replacement trees during an establishment period of at least three years and guarantee any associated replacement costs in accordance with Section <>, Performance Guarantee.

b. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees and guarantee their survival and health for a new three-year establishment period.

B. PAYMENT IN-LIEU OF PROVIDING REQUIRED REPLACEMENT TREES

01. In-lieu of providing all or a portion of the replacement trees required by sub-section (A) above, the developer may, with the approval of the review authority considering the application, and subject to the provisions in Section <>, Fee-in-Lieu, make a payment to the Town that approximates the cost of purchasing and installing the required replacement trees.

02. The applicant may propose an in-lieu payment option only upon determining that it is impractical to provide the replacement trees for which in-lieu payment is proposed on the development site.

03. The amount of the in-lieu payment shall be determined based upon an estimate provided by the applicant and accepted by the Planning Director. The Town may require an independent analysis of the estimate, the cost of which shall be the responsibility of the applicant.

04. The applicant shall make the in-lieu payment before recordation of any Subdivision Plat for the development or issuance of any Building Permit for the development (if no subdivision approval is required)—provided, however, that the payment may be phased in accordance with an approved phasing plan for the development.

05. The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for purchasing, installing, replacing, and/or maintaining trees in public parks, greenways, or other land owned or leased by the Town.

6.16.9. TREE REMOVAL AND TOPPING ON PUBLIC PROPERTY

A. The removal or topping of trees shall be prohibited on public property and designated rights-of-way unless such activity is conducted by the Town or a public utility provider, and is necessary to protect public health, safety, or welfare.

B. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this standard by the Planning Director.