Land Development Code

City of Hickory, NC

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1. TA 11-01 (Adopted 12-6-2011) - amendments to Article 3 (Zoning Districts), Article 4 (Overlay Districts), Article 6 (Use Regulations), Article 7 (Intensity Dimensional and Design Standards), Article 9 (Standards of General Applicability), Article 10 (Signs), Article 12 (Nonconformities), and Article 14 (Definitions).
2. TA 12-01 (Adopted 2-5-2013) – amendments to Article 2 (Development Review Procedures), Article 6 (Use Regulations), Article 7 (Intensity, Dimensional and Design Standards), Article 9 (Standards of General Applicability) and Article 10 (Signs).
3. TA 14-01 (Adopted 4-15-2014) – amendments to Article 2 (Development Review Procedures), Article 4 (Overlay Districts), Article 6 (Use Regulations), Article 7 (Dimensional Standards), Article 8 (Subdivisions), Article 9 (Standards of General Applicability) and Article 10 (Signs).
4. TA 14-02 (Adopted October 7, 2014) – amendments to Article 6 (Sec. 6.1 Use Table & 6.2.21 Seasonal and Temporary Sales) and Article 14 (Section 14.1 Terms and Definitions Defined).
5. TA 14-03 (Adopted January 6, 2015) – amendments to Article 6 (Sec 6.3.2 Accessory Dwelling Units, Sec. 6.4 Temporary Health Care Structures), Article 7 (Sec. 7.1 Residential District Standards), and Article 14 (Sec. 14.1 Terms and Uses Defined).
6. TA 15-01 (Adopted December 15, 2015) – amendments to Article 2 (Sec. 2.2.9 Citizen Comments), Article 4 (Section 4.3 Neighborhood Preservation Overlay District), and Article 9 (Sec. 9.14.7 Perimeter Parking Area Buffers).
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Article 1 **Introductory Provisions**

Sec. 1.1 Title

This Ordinance shall be officially known and cited as the "Land Development Code of the City of Hickory, North Carolina." For convenience, it may be referred to simply as the "Land Development Code" or "LDC."

Sec. 1.2 Authority

This Land Development Code is adopted and may be amended from time to time in accordance with the powers granted and limitations imposed by:

1.2.1 the Charter of the City of Hickory;

1.2.2 Session Laws of North Carolina, Chapter 477; and

1.2.3 North Carolina General Statute Chapter 160A.

Sec. 1.3 Applicability and Jurisdiction

This Land Development Code shall apply to all development, public and private, throughout the City of Hickory and its extraterritorial planning jurisdiction. No building, structure, land or water shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, reconstructed, moved, located or structurally altered except in conformity with this Land Development Code. It is the specific intent of the City Council that all floating structures and buildings, as well as buildings and structures built over or in water, shall meet all the requirements of this Land Development and other applicable ordinances and regulations of the City of Hickory. A map showing the boundaries of the city's planning jurisdiction shall be available for public inspection in the Planning Department.

Sec. 1.4 Compliance Required

It shall be unlawful to conduct, use or occupy any development or construct any structure until: (1) all applicable development review and approval processes have been followed; (2) all applicable approvals have been obtained; and (3) all required permits or authorizations to proceed have been issued.

Sec. 1.5 Interpretation

In the interpretation and application of this Land Development Code, all provisions shall be liberally construed in favor of the City of Hickory. The provisions shall not be deemed to limit or repeal any other powers granted under state statutes.

Sec. 1.6 Minimum Requirements

The standards of this Land Development Code are minimum requirements. The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Land Development Code shall not relieve the recipient of the responsibility for complying with all other applicable requirements of any other city, county, state or federal agency.

Sec. 1.7 Purpose and Intent

This Land Development Code is necessary and adopted to promote the public health, safety, morals, convenience, comfort, amenities, prosperity and general welfare of persons within the planning jurisdiction of the City of Hickory. More specifically, the regulations are intended to:

1.7.1 Implement the Hickory by Choice 2030 Comprehensive Plan;

1.7.2 Preserve and protect land, air, water, environmental resources and property values;

1.7.3 Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resources and government expenditures;

1.7.4 Regulate the type and intensity of development; and

1.7.5 Ensure protection from fire, flood and other dangers.

Sec. 1.8 Implementation of the Comprehensive Plan

This Land Development Code has been prepared in conjunction with the Hickory by Choice 2030 Comprehensive Plan. It is intended that decisions made pursuant to this Land Development Code will implement and be consistent with the Comprehensive Plan.

1.8.1 An amendment to the text of this Land Development Code shall be considered consistent with the Comprehensive Land Use and Transportation Plan if it complies with the Plan's goals and policies. A zoning map amendment shall be considered consistent with the Comprehensive Land Use and Transportation Plan if the map amendment is consistent with the "Future Land Use Map" of the Comprehensive Land Use and Transportation Plan. While the City Council reaffirms its commitment that this Land Development Code and any amendments to it be in conformity with the Comprehensive Land Use and Transportation Plan, the City Council hereby expresses its intent that this Land Development Code and any amendments to it may not be challenged on the basis of any alleged nonconformity with the Comprehensive Land Use and Transportation Plan or any other adopted plan of the city.

1.8.2 Developments that were legally established under regulations that predate this Land Development Code shall not be deemed inconsistent with the Comprehensive Land Use and Transportation Plan.

Sec. 1.9 Zoning Map

1.9.1 The location and boundaries of the districts established in this Land Development Code shall be set forth on the Official Zoning Map of the City of Hickory and its extraterritorial jurisdiction, which is incorporated herein by reference. A copy of the Official Zoning Map shall be available at all times for inspection by the general public during regular business hours in the Planning Department office.

1.9.2 If pursuant to the requirements of this Land Development Code, amendments are made to the boundaries reflected on the Official Zoning Map, such amendments shall be entered on the Official Zoning Map by the Planning Director within 30 days following the amendment.

Sec. 1.10 Manual of Practice

The City Engineer shall maintain a Manual of Practice. This manual shall be a technical guide providing plans and specifications for typical infrastructure improvements including but not limited to: streets, driveways, street lighting, sidewalks, stormwater management and utility service. All development shall comply with the standards contained therein or with City Engineer approved alternatives prior to issuance of certificate of completion, certificate of occupancy or release of performance or warranty bonds. The City Engineer may amend the Manual of Practice as required to maintain it in conformance with industry best practices.

Sec. 1.11 Commentary

Commentaries are included in this Land Development Code whenever necessary to clarify the intent of a specific provision. These commentaries are a guide for administrative officials and the public to use in

interpreting and understanding the Land Development Code, but they are not themselves ordinances and do not have the effect of law. Should any conflicts between the commentary and the general text of the Land Development Code be found, the general text shall control.

Sec. 1.12 Word Usage and Construction of Language

1.12.1 Meanings and Intent

All provisions, terms, phrases and expressions contained in this Land Development Code shall be construed according to the Purpose and Intent set out in Sec. 1.7 and, if defined, to the meaning established in this Land Development Code.

1.12.2 Particular and General Provisions

Particular ordinance language controls over general ordinance language.

1.12.3 Buildings and Structures

A “building,” “structure” or “development” includes any part thereof.

1.12.4 “Used For”

The phrase, “used for” includes “arranged for,” “designed for,” “maintained for,” or “occupied for.”

1.12.5 “Person”

The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

1.12.6 Headings, Illustrations and Text

In case of any difference of meaning or implication between the text of this Land Development Code and any heading, drawing, table, figure, or illustration, the text shall control.

1.12.7 Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as “including,” “such as,” or similar language are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

1.12.8 Computation of Time

References to days are to calendar days unless otherwise stated. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by the city, the time in which to act shall not run until the next day that is not a Saturday, Sunday or holiday observed by the city. When the period of time prescribed is less than 7 days, intermediate Saturdays, Sundays and holidays shall be excluded. A day concludes at the close of the business day (5:00 PM), any materials received after that time shall be considered to be have been received the following City of Hickory business day. Unless otherwise provided, whenever a person has the right or is required to perform an act within a prescribed period after the service of a notice or other notice and the notice or paper is served by mail, 3 days shall be added to the prescribed period.

1.12.9 References to Other Regulations and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

1.12.10 Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.

1.12.11 Technical and Non-technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. If a technical term is defined in this Land Development Code it shall have the meaning ascribed to it.

1.12.12 Public Officials and Agencies

All employees, public officials, bodies, and agencies to which references are made are those of the City of Hickory unless otherwise expressly stated.

1.12.13 Mandatory and Discretionary Terms

The words "shall," "will," and "must" are mandatory. The words "may" and "should" are advisory and discretionary terms. When referring to design guidelines, the term "shall" means the guidelines are mandatory and must be applied as written. When referring to design guidelines, the term "should" means that the guidelines are to be applied with flexibility, and that alternative design features are allowed provided the intent of the guideline is met.

1.12.14 Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows: "and" indicates that all connected items, conditions, provisions, or events apply; and "or" indicates that one or more of the connected items, conditions, provisions, or events apply.

1.12.15 Tenses and Plurals

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

Sec. 1.13 Conflicting Provisions

1.13.1 Conflict with State or Federal Regulations

If the provisions of this Land Development Code are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law.

1.13.2 Conflict with Other City Regulations

If the provisions of this Land Development Code are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision will control.

1.13.3 Conflict with Private Agreements and Covenants

This Land Development Code is not intended to abrogate, annul, or otherwise interfere with any lawful easement, covenant, or other private agreement or legal relationship otherwise in conformance with it.

Sec. 1.14 Transitional Provisions

1.14.1 Violations Continue

Any violation of the previous zoning, subdivision or sign regulations of the city shall continue to be a violation under this Land Development Code and shall be subject to penalties and enforcement under Article 15 unless the use, development, construction or other activity is consistent with the express terms of this Land Development Code, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the effective date of this ordinance. The adoption of this Land Development Code shall not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous City of Hickory Zoning Ordinance or other city land development ordinance that occurred prior to the effective date of this ordinance.

1.14.2 Nonconformities

Any nonconformity under the previous zoning regulations of the City will also be a legal nonconformity under this Land Development Code, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under a previous regulation becomes conforming because of the adoption of this Land Development Code, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity. A situation that did not constitute a lawful nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Land Development Code merely by repeal of the previous zoning ordinance.

1.14.3 Applications Submitted Before the Effective Date of this Ordinance

Any building, development including planned development preliminary development plans or structure for which a complete application was submitted to the city before the effective date of this ordinance and pending approval on after the effective date of this ordinance may, at the applicant's option, be reviewed wholly under the terms of the city's previous zoning or subdivision regulations. If approved, such projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.

1.14.4 Permits Issued Before the Effective Date of this Ordinance

Any building, development or structure for which a permit was duly issued before the effective date of this ordinance may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building, development or sign does not fully comply with provisions of this Land Development Code. If construction is not commenced or completed in accordance with the applicable permit terms, the decision making body may, upon receipt of a written request and payment of the required fee, grant one 6-month time extension for good cause shown. If the building is not commenced or completed within the time allowed under the original permit or any extension granted, then the building, development or structure may be constructed, completed or occupied only in strict compliance with the requirements of this development code. This section applies in addition to any established vested right a person may have, but in no case may a person add time acquired pursuant to this section to time permitted by virtue of a vested right or vice versa.

1.14.5 Plats Approved Before the Effective Date of this Ordinance

Any subdivision for which a preliminary plat was approved before the effective date of this ordinance may be recorded in accordance with the approved plat and other applicable permits and conditions, even if the subdivision does not fully comply with the provisions of this Land

Development Code. If work on the subdivision does not begin within time requirements established by prior ordinance or resolution or within any schedule included in the approval of the plat, the decision making body may, upon receipt of a written request and payment of the required fee, grant one 6-month time extension for good cause shown. If work on the subdivision does not begin within the time required under the original approval or any extension that may be granted, then the final plat may be approved and recorded and buildings therein constructed and used only in strict compliance with the requirements of this Land Development Code. This section applies in addition to any established vested right a person may have, but in no case may a person add time acquired pursuant to this section to time permitted by virtue of a vested right or vice versa.

Sec. 1.15 Severability

1.15.1 If any Court of competent jurisdiction rules any provision of this Land Development Code invalid, that ruling shall not affect any Land Development Code provision that is not specifically included in the judgment.

1.15.2 If any Court of competent jurisdiction rules invalid the application of any provision of this Land Development Code to a particular property, building, or other structure, or use, that ruling shall not affect the application of the Land Development Code provisions to any property, building, other structure, or use not specifically included in the judgment.

Article 2 **Development Review Procedures**

Sec. 2.1 General

2.1.1 Authority to File Applications

Unless otherwise expressly stated elsewhere in this article, any application including text amendments and zoning map amendments required under this article may be filed by any city department, review or decision-making body, the owner of property that is the subject of the application, or by the authorized agent of the subject property owner. In the case, of subdivision plats, site plan review, planned developments, conditional zoning, and special uses, only property owners or authorized agents may submit an application. In the case of appeals, applications may be filed by the subject property owner or by any affected person aggrieved by the decision being appealed. When a decision-making body initiates an application it does so without prejudice toward the outcome.

2.1.2 Pre-application Conference (*TA 14-01)*

Pre-application conferences are intended to provide a forum for the discussion of proposed development projects. These conferences include relevant City and County staff, developers, architects, engineers, contractors and other design professionals. The intent of these conferences is to provide preliminary comments and observations regarding development projects; and to further provide developers, architects, contractors and other design professionals with the opportunity to ask questions and receive feedback before formally submitting applications for development review. The Planning Department will be responsible for facilitating pre-application conferences.

Development projects with any of the following shall be required to participate in a pre-application conference prior to submittal for any applications:

A. any development project proposing to construct or erect a single structure, or addition to an existing structure(s), which has a gross floor area of fifteen-thousand square feet (15,000 ft^2) or greater;

B. any development project proposing renovations to an existing structure, where such activities involve improvements and/or alterations to fifteen-thousand square feet (15,000 ft^2) or more of the existing floor area of the structure(s);

C. any development project which involves the construction of more than one (1) structure on a single parcel of property;

D. any development project which involves the construction of an additional structure(s) on a parcel of property which already contains a structure (This shall not apply to incidental accessory structures.);

E. any development project which involves the construction of new, or relocation of existing public or private streets;

F. any development project, which upon completion, would be expected to increase traffic by seven hundred fifty (750) vehicle trips per day, as outlined in the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; and

G. any development project which requires the extension of utility services.

For all other development projects, applicants are encouraged to request a pre-application conference with the appropriate city staff.

2.1.3 Form of Application

Applications required under this Land Development Code must be submitted in a form and in such numbers as noted on the application as required by the official responsible for accepting the application. Application forms and checklists of required submittal information are available from the official responsible for accepting the application.

2.1.4 Application Filing Fees

Applications must be accompanied by the required fee amount as established by the City of Hickory Annual Fee Schedule available from the Planning Department. Fees are not required with applications initiated by a city department or by review or decision-making bodies. Unless otherwise expressly stated in this Land Development Code, application fees are nonrefundable. In addition to required application fees, applicants shall also be responsible for paying the direct costs of mailing and publishing required notices.

2.1.5 Application Completeness

An application will be considered complete if it is submitted in the required number and form, includes all requested information and is accompanied by the applicable fee. A determination of application completeness shall be made within 10 days of application filing. If an application is determined to be incomplete, the official responsible for accepting the application shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected.

2.1.6 Application Deadlines

Each year, staff shall prepare a calendar of application deadlines. Applications shall be submitted prior to the deadline and determined to be complete within the prescribed period. Any application submitted after the deadline or found to be incomplete within the prescribed time frame shall be held until the next deadline.

2.1.7 Notices (*TA 14-01)*

A. Content

Notices required under Subsections (1) and (3) below shall: (1) indicate the date, time and place of the public hearing or date of action that is the subject of the notice; (2) describe the property involved in the application by street address and by Property Identification Number (PIN) or by legal description; (3) describe the nature, scope and purpose of the application or proposal; and (4) indicate where additional information on the matter can be obtained.

B. Types

(1) Newspaper Notice (N)

When the provisions of this Land Development Code require that "Newspaper Notice" be provided, the official responsible for accepting the application shall ensure that notice is published at least twice in a newspaper of general circulation in Hickory. The notice shall appear in the newspaper for 2 successive weeks with the first notice appearing not less than 10 calendar days nor more than 25 calendar days before the date of the public hearing. Prior to final action on the application, the official responsible for accepting the application shall certify that notices have been published.

(2) Posted Notice (P)

When the provisions of this Land Development Code require that "Posted Notice" be provided, the official responsible for accepting the application shall post notice on the subject property. Such posted notice shall be in the form of official signs provided by the Planning Department and be done in a manner that makes the notice clearly visible to neighboring residents and passers-by from each public street bordering the subject property. At least one sign shall be prominently posted along each street frontage. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel shall not be required, but the city shall post sufficient notices to provide reasonable notice to interested persons. Unless otherwise expressly provided in state statutes or this Land Development Code, required posted notice shall be in place at least 10 days before the public hearing, meeting, or date of action that is the subject of the notice. Prior to final action on the application, the official responsible for accepting the application shall certify that notices have been given.

(3) Mailed Notice (M)

(a) When the provisions of this Land Development Code require that "Mailed Notice" be provided, the official responsible for accepting the application shall mail notice to the owner of the subject property and all owners of property within 500 feet of the subject property. Ownership information shall be based on the most recent county tax records. Unless otherwise expressly provided in state statutes or this Land Development Code, required notices shall be deposited in the U.S. mail at least 10 days before and not more than 25 days before the public hearing, meeting, or date of action that is the subject of the notice. Prior to final action on the application, the Planning Director shall certify that notices have been given.

(b) The first class mail notice required under subsection (a) shall not be required if a zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least 50 different property owners. In this instance the may city, as an alternative, elect to publish a notice of public hearing as required by NCGS 160A-364, but provided that each advertisement shall not be less than on-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a).

(c) Except for a city-initiated zoning map amendment (i.e. an amendment initiated by any city department, review or decision-making body), when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the city council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. For the purposes of this subsection, "actual notice" of the proposed amendment and a copy of the notice of public

hearing shall be by any manner permitted under G.S. § 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. § 1A-1, Rule 4(j1).

(d) In the event of appeals of administrative decisions, the notice will be mailed to the person or entity whose appeal, application or request is the subject of the hearing, and to the owner of the property that is subject to the hearing if the owner did not initiate the hearing.

2.1.8 Continuation of Public Hearings

Whenever the provisions of this Land Development Code require that a review or decision-making body take action on an application, the review or decision-making body shall be authorized to postpone action on the matter until a later date. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Land Development Code, provided that the continuance is set for a date and time certain which is announced in open session during the originally noticed meeting. If a public hearing is tabled or deferred for an indefinite period of time or postponed more than 6 months from the date of the originally scheduled public hearing, new public notice shall be required prior to the rescheduled public hearing. The cost of such re-notification shall be borne by the party requesting the postponement.

2.1.9 Action by Decision-Making Bodies

Unless otherwise expressly stated in this Land Development Code, decision-making bodies may take any action on an application that is consistent with any notice given, including, but not limited to, approving such application, approving the application with modifications or conditions or denying the application. The decision-making ¬body may impose conditions on the application or allow amendments to the pending application if the effect of the conditions or amendments is to allow a less intensive use or zoning district than indicated in the application or to reduce the impact of the development or to reduce the amount of land area included in the application. Decision-making bodies may not approve a greater density of development; a more intensive use or a more intensive zoning district than was indicated in any required notice.

2.1.10 Burden of Proof or Persuasion

In all cases, the applicant shall have the burden of establishing that an application complies with applicable review or approval criteria of this Land Development Code.

2.1.11 Conditions of Approval

In approving development applications for Special Use Permits and Conditional Zoning, decision-making bodies shall be authorized to impose such conditions upon the premises benefited by the approval as outlined within Article 2.

2.1.12 Inaction by Review/Decision-Making Bodies

When a review or decision-making body fails to take action on an application within any time frame that is specified in this article or by statute, such inaction shall be interpreted as a recommendation of approval without conditions or approval of the application without conditions, respectively. Time frames for action may be extended if the applicant consents to the extension. When a review body fails to take action on an application within the time required, the decision-making body shall be free to proceed with its own action on the matter without further awaiting the recommendation of the review body.

2.1.13 Summary of Procedures *(TA 14-01)*

The following table provides a summary of the procedures in this article. In the event of conflict between this summary table and the detailed procedures in this article, the detailed procedures shall govern.

Procedure	Decision-Making Authority [1]						Notice
	Staff	PD	PC	BOA	HPC	City Council	[2]
Text Amendments	R	—	R	------	—	<DM>	N
Zoning Map Amendments	R	—	R	------	—	<DM>	N, P, M
Subdivision Plats							
Minor Subdivision							
Preapp. Conf./Sketch Plan	R	—	—	—	—	—	—
Final Plat	R	DM	—	—	—	—	—
Major Subdivision							
Preapp. Conf./Sketch Plan	R	—	—	—	—	—	—
Preliminary Plat	R	DM	—	—	—	—	P, M [4]
Final Plat	R	DM	—	—	—	—	—
Special Uses	R	—	<DM>	—	—	—	N, P, M
Alternative Sign Plans	R	DM	—	—	—	—	—
Certificates of Appropriateness							
Minor	DM	—	—	A	—	—	—
Major	R	—	—	A	<DM>	—	M, N, P
Sign Permits/Common Sign Plan	DM [3]	—	—	—	—	—	—
Zoning Compliance Permits	DM [3]	—	—	—	—	—	—
Zoning Compliance Certificates	DM [3]	—	—	—	—	—	—
Variances	R	—		<DM>	—	—	N, P, M
Appeals of Admin. Decisions	—	—	—	<DM>	—	—	N, P, M

Notes: PD = Planning Director • PC = Planning Commission • BOA = Board of Adjustment • HPC = Historic Preservation Commission

When no local appellate body is specified, appeals are taken to the Superior Court.

[1] R = Review Body (Responsible for Review and Recommendation); DM = Decision-Making Body (Responsible for Final Decision to Approve or Deny); A = Authority to hear and decide appeals of Decision-Making Body's action.

[2] Notices: N = Newspaper (published); P = Posted (signs); M = Mailed (See 2.1.7)

[3] Appeals processed as "Appeals of Administrative Decisions."

[4] Residential Sub. Only <> = Public Hearing Required

Sec. 2.2 Land Development Code Text and Zoning Map Amendments

2.2.1 Amendments in general

A. Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this article.

B. Conditional district zoning requests shall be made in accordance with the provisions of section 2.2.8.

C. As provided in G.S. 160A-385(b), amendments in zoning ordinances shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either:

(1) a building permit has been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes as long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422.

(2) a vested right has been established pursuant to G.S. 160A-385.1 and all provisions of this ordinance and such vested right remains valid and unexpired.

D. The review process for an amendment to the text of this ordinance or to the zoning map shall include:

(1) Planning department staff review;

(2) Planning commission review and recommendation in accordance with section 2.2.5; and

(3) City Council review and action.

2.2.2 Initiation and Application Filing

A. Any person or organization may petition the city council to amend this ordinance, with the exception that only the property owner or authorized agent may petition for rezoning to a Planned Development or Conditional Zoning District. The petition shall be filed with the planning director and shall include:

(1) The name, address, and phone number of the applicant;

(2) A scaled map of the land affected by the amendment if a change in zoning district classification is proposed; and

(3) Description of the proposed map change or a summary of the specific objective of any proposed change in the text of this ordinance.

B. Petitions for amendments shall be submitted to the planning director by the established deadline for the planning commission meeting at which the petition will be reviewed.

2.2.3 Public Hearing Notice

Notice of the City Council's hearing shall be provided in accordance with Sec. 2.1.7.

2.2.4 Staff Review/Report

The Planning Director shall review each proposed Land Development Code and Zoning Map amendment in light of the Review Criteria of Sec. 2.2.7 and, if deemed necessary, distribute the proposed amendment to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed amendment to the Planning Commission and City Council.

2.2.5 Planning Commission's Review/Recommendation

The Planning Commission shall review each proposed Land Development Code and Zoning Map amendment in light of the Review Criteria of Sec. 2.2.7 and recommend that the City Council approve, approve with modifications or deny the proposed amendment. The Planning Commission shall make its recommendation to the City Council within no more than two consecutive meetings. If no written report is received from the Planning Commission within thirty days of referral of the amendment to that board, the City Council may proceed in its consideration of the amendment without the Planning Commission report. The Planning Commission shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

2.2.6 City Council Hearing and Decision

After receiving the Planning Commission's recommendation or after having allowed the time required for the Planning Commission's consideration, the City Council shall hold at least one public hearing to review each proposed Land Development Code and Zoning Map amendment in light of the Review Criteria of Sec. 2.2.7. Following the public hearing (at the same or subsequent meeting), the City Council shall take action to approve, approve with modifications or deny the proposed amendment. Prior to approving or denying any proposed amendment, the City Council shall adopt a statement describing whether its action is consistent with any adopted relevant plans and explain why the Council considers the action taken to be reasonable and in the public interest.

2.2.7 Review Criteria

In reviewing and making recommendations on proposed text and map amendments, review bodies shall consider all of the following factors:

A. Zoning Map Amendments

(1) consistency of the proposed amendment with the Hickory Comprehensive Land Use and Transportation Plan and the stated Purpose and Intent of this Land Development Code (See Sec. 1.7);

(2) existing land uses within the general vicinity of the subject property;

(3) the zoning classification of property within the general vicinity of the subject property;

(4) the suitability of the subject property for the uses permitted under the existing zoning classification;

(5) the extent to which the proposed amendment will detrimentally affect properties within the general vicinity of the subject property;

(6) the extent to which the proposed amendment will cause public services including roadways, stormwater management, water and sewer, fire and police protection to fall below acceptable levels; and

(7) whether the proposed amendment will protect the public health, safety and general welfare.

B. Text Amendments

(1) Whether the proposed amendment corrects an error or inconsistency in the Land Development Code or meets the challenge of a changing condition;

(2) Whether the proposed amendment is consistent with the Hickory Comprehensive Land Use and Transportation Plan and the stated purpose of this Land Development Code; and

(3) Whether the proposed amendment will protect the public health, safety and general welfare.

2.2.8 Conditional Zoning

A. Purpose. Conditional zoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a general use district. Additional standards and regulations may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans in accordance with the requirements of this section.

B. Conditional zoning districts. Conditional zoning is available for any of the general zoning classifications enumerated in this ordinance. The conditional zoning designation shall be indicated on all zoning maps and other official documents with the suffix, "(CZ)" (e.g. R-1 (CZ); C-2 (CZ)). All applications for rezoning to a Planned Development (PD) zoning district, as described in Article 5, shall be processed as conditional zoning applications.

C. General requirements. The following provisions shall apply to the administration of conditional zoning.

(1) A conditional zoning application shall be considered only upon request of the owners of all the affected property or their duly authorized representative.

(2) Prior to submittal of the application, it is strongly recommended that the applicant meet with representatives of the surrounding property owners and of the surrounding neighborhood(s) to discuss the proposed development, and include a report of any such meetings in its application.

(3) All standards and requirements of the corresponding general use zoning district shall be met, except to the extent that the conditions imposed by the conditional zoning are more restrictive than the general use standards, and/or where the requirements are modified in accordance with subsection 2.2.8(c)(6).

(4) No uses shall be permitted except those enumerated in the ordinance adopting the conditional zoning.

(5) The conditions agreed upon pursuant to the conditional zoning approval shall be stated in the adopting ordinance and may limit the uses which are permitted on the property. By way of illustration and not limitation, conditions may specify location on the property of the proposed structure(s), the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the height of structures, the location and extent of rights-of-way and other areas to be dedicated for public purposes, and other such matters as may be identified as appropriate for the proposed development.

(6) Minor modifications to the approved conditional zoning ordinance may be approved by the planning and development director. Such modifications shall be limited to the following:

(a) An increase of up to 10 percent in the number of parking spaces required by Sec. 9.2.2.

(b) An increase in floor area of up to 500 square foot or 15%, whichever is less.

Any other modifications shall be approved by the City Council as an amendment to the conditional zoning ordinance, and shall be referred to the Hickory Regional Planning Commission. The Planning Director shall in every case have the discretion to decline to exercise the power to approve or deny minor modifications as provided for herein, and may require the applicant to seek an amendment to the conditional zoning ordinance.

(7) Any violation of a provision of a conditional zoning ordinance shall be treated the same as any other violation of this chapter and shall be subject to the same remedies and penalties as any other such violation.

(8) If for any reason any provision of a conditional zoning ordinance is found to be illegal or invalid, or if the applicant should fail to accept any condition, the entire ordinance shall be null and void, and the property shall revert to its previous zoning classification without further action by the city council.

D. Application procedure

When applying for conditional zoning, the owner shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans. Applications for conditional zoning shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in this article for zoning map and zoning text amendments, except as provided below:

(1) The application shall include site plans, landscape plans, building elevations, floor plans, and such other information required to provide the approving bodies with a complete and accurate description of the proposed development.

(2) The application and supporting materials shall be reviewed by the planning department in accordance with its procedures for reviewing applications for special use permits and zoning map amendments prior to the meeting of the planning commission at which the application is to be considered. The recommendations and comments of the planning department shall be reported to the planning commission, which shall be reported at the public hearings on said applications.

(3) Following review by the planning department, the Hickory Planning Commission shall make a recommendation on applications for conditional zoning. The hearing, the Planning Commission may recommend approval, approval with conditions or denial.

(4) Upon receipt of the recommendations from the planning commission, the city council shall hold a public hearing on the application for conditional zoning. Notice of the public hearing shall be provided in accordance with the provisions of Sec. 2.1.7 of this chapter and the North Carolina General Statutes.

(5) The city council's consideration of an application for conditional zoning is legislative in nature, and the council may consider any relevant information in its deliberations, including the criteria for considering special use permits and zoning map amendments. Consideration shall be given to adopted land use plans

for the area, small area plans, corridor plans, and other land use policy documents, and to surrounding land uses. The council may adopt or not adopt a conditional zoning ordinance, or may continue its consideration of the application as necessary or appropriate.

(6) During the adoption of a conditional zoning ordinance, specific conditions may be proposed by the petitioner, city council, planning commission or city staff, but only those conditions mutually approved by city council and the petitioner may be incorporated into the zoning regulations and permit requirements. Conditions and site-specific standards imposed shall be limited to those that address the conformance of the development and use of the site to city ordinances, an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

(7) Specific findings of the city council are not required for action on an application for conditional zoning. However, a statement analyzing the reasonableness of the proposed rezoning shall be prepared and adopted by City Council.

(8) Prior to the issuance of any permits, the applicant must submit detailed plans to the planning department for final review.

(9) Upon adoption of a conditional zoning ordinance, the official zoning map of the City of Hickory shall be amended to add the conditional zoning district. The planning director shall maintain a book or file for conditional zoning ordinances, and each conditional zoning ordinance shall be filed therein. Failure to comply with this provision shall not render the ordinance invalid.

(10) The conditional zoning ordinance adopted as provided herein shall be perpetually binding upon the affected property unless subsequently changed or amended as provided for in this chapter.

(11) Conditional zoning ordinances are legislative in nature, and judicial review of conditional zoning ordinances shall be as provided by law for zoning ordinances.

2.2.9 Citizen Comment *(TA 15-01)*

If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal of this Land Development Code or official zoning map to the City Clerk at least two (2) business days prior to the proposed vote on such change, the City Clerk shall deliver such written statement to the City Council. If the proposed change is the subject of a quasi-judicial proceeding under NCGS 160A-288, the City Clerk shall provide only the name and address of the individual providing written comment, and the provision of such names and addresses to all of the City Council shall not disqualify any member of the Council from voting.

2.2.10 Notice of Decision

Within 10 days after a final zoning map amendment decision is made by the City Council, copies of the decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

2.2.11 Withdrawal of Application

An applicant may withdraw the application at any time by written notice to the Planning Director. Any withdrawal of an application after the giving of the first public hearing notice shall be considered a denial of the application.

2.2.12 Deferral of Applications

An applicant may defer the application by written notice to the Planning Director prior to the first public hearing notice. An application shall not be deferred for a period longer than thirty (30) days, at which time the application shall proceed to public hearing or be withdrawn.

2.2.13 Successive Applications

When the City Council denies an application or the applicant withdraws an application after the first public hearing notice has been published in the newspaper, the City Council shall not consider another application for the same or similar amendment affecting the same property or a portion of it until the expiration of a 1-year period, extending from the date of denial by the City Council or withdrawal by the applicant.

Sec. 2.3 Subdivision Plats

2.3.1 Applicability

Unless otherwise expressly stated, review and approval in accordance with the procedures of this section shall be required for all divisions of a tract or parcel of land into two or more lots, building sites or other division for the purpose of sale or building development, whether immediate or future, including all divisions of land involving the dedication of a new street or a change in existing streets.

2.3.2 Exemptions

A. The following shall not be subject to the review and approval procedures of this section:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the requirements of the subdivision regulations of this Land Development Code;

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

(3) The public acquisition of strips of land for the widening or opening of streets; or

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the subdivision regulations of this Land Development Code.

Any subdivision plat that qualifies as exempt pursuant to this section must be reviewed and confirmed by City staff to be exempt, and no exempt subdivision plat may be recorded until the City staff has confirmed the exempt status by written notation on the plat.

B. In interpreting paragraph (A)(1) above, the term “previously subdivided” shall mean platted and approved if such lots were created in accordance with subdivision regulations in effect at the time of their creation, or created as a result of a recorded land division prior to existence of applicable subdivision regulations.

C. In interpreting paragraphs (A)(2) and (A)(4) above, the phrase “where no street right-of-way dedication is involved” shall be construed as meaning that any such parcel shall be served by a private driveway or an existing street that has been accepted for dedication and maintenance by the City of Hickory or the North Carolina Department of Transportation.

2.3.3 Minor Subdivisions

The expedited review and approval procedures of this subsection shall apply to "Minor Subdivisions," as that term is defined in Article 14. The procedures for approval of minor subdivisions are intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The main difference between the Minor and Major Subdivision processes is that Minor Subdivisions do not require a preliminary plat. After completion of a Preapplication Conference and Sketch Plan review, the applicant may apply directly for approval of a final plat.

A. Preapplication Conference

Before submitting a Minor Subdivision application, the applicant shall confer with the Planning Director to discuss the proposal and applicable regulations. The purpose of the required Preapplication Conference is for the applicant to become familiar with applicable subdivision procedures and standards. Prior to or as part of the Preapplication Conference, the applicant shall submit a Sketch Plan of the proposed subdivision showing the approximate size of the property, the tentative street layout, proposed lot sizes, watercourses and the location of the property in relation to existing streets and surrounding areas. The Planning Director and other administrative officials shall review the Sketch Plan. Following their review, the reviewing officials shall confer with the applicant to discuss any matters that will assist the applicant in preparing a Preliminary Plat. No review fee shall be required for Preapplication Conferences or Sketch Plans.

B. Final Plat

After completing the Preapplication Conference and Sketch Plan review, applicants for Minor Subdivision approval shall proceed to the Final Plat review stage, which shall be carried out in accordance with Sec. 2.3.4C.

C. Approval Criteria

Minor subdivision plats shall be approved only when the Planning Director finds that all of the following conditions exist:

(1) The plat complies with the standards of Article 8 and the other applicable requirements of this Land Development Code;

(2) The plat indicates that all subject lots will have frontage on existing approved streets;

(3) New or residual parcels will conform to the requirements of this Land Development Code and other applicable regulations;

(4) No new streets are required or are likely to be required for access to interior property;

(5) No extension of public sewerage or water lines will be required;

(6) The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property;

(7) Appropriate right-of-way for widening has been offered for reservation or dedication where the lots front on an existing approved street indicated in the official major street plan as intended for widening. In general, such right-of-way offered for dedication or reservation shall be adjacent to the existing right-of-way, and of such width as to provide a total of half of the projected right-of-way width indicated on the street plan, as measured from the center of the existing street provided, however, that in cases of projected changes in the alignment of

the centerline, greater or lesser amounts may be required as appropriate. In no case shall right-of-way offered for dedication for such purposes be required to be more than an average of 25 feet in width;

(8) All necessary drainage easements have been provided and stormwater management as required by this Land Development Code.

D. Notice of Decision

Within 10 days after a minor subdivision plat decision is made by the Planning Director, copies of the decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

E. Appeals

Any party aggrieved by a decision approving or denying a plat may seek to have the decision reviewed by filing an action in Superior Court seeking appropriate declaratory or equitable relief. Such action must be filed within thirty days after the written decision is rendered.

2.3.4 Major Subdivisions

The procedures of this subsection shall apply to all "Major Subdivisions," as that term is defined in Article 14.

A. Preapplication Conference

Before submitting a Preliminary Plat for a proposed subdivision, the applicant shall confer with the Planning Director to discuss the proposal and applicable regulations. The purpose of the Preapplication Conference is for the applicant to become familiar with applicable subdivision procedures and standards. Prior to or as part of the Preapplication Conference, the applicant may submit a Sketch Plan of the proposed subdivision showing the approximate size of the property, the tentative street layout, proposed lot sizes, watercourses and the location of the property in relation to existing streets and surrounding areas. The Planning Director and other administrative officials shall review the Sketch Plan. Following their review, the reviewing officials shall confer with the applicant to discuss any matters that will assist the applicant in preparing a Preliminary Plat. No review fee shall be required for Preapplication Conferences or Sketch Plans.

B. Preliminary Plats

(1) Application

A complete application for Preliminary Plat approval shall be submitted to the Planning Director on forms available in the Planning Department.

(2) Notice

Each application for Preliminary Plat approval shall contain the name and address of the person who is to receive all notices pertaining to the application.

(3) Staff Review/Report

The Planning Director shall prepare a report that reviews the Preliminary Plat in light of the standards of Article 8 and the other applicable requirements of this Land Development Code. The Planning Director shall provide a copy of the report to the applicant and any interested parties.

(4) Required Intergovernmental Coordination

The Planning Director shall provide copies of all applications for Major Subdivision preliminary plat approval to the Superintendent of the public school system for which the subject property is located for their review and comment.

(5) Public Input

Prior to preliminary approval of any subdivision, any member of the public wishing to do so may comment on the matter. The Planning Director shall consider all public comments received during the comment period prior to taking final action on any requested subdivision.

(6) Planning Director's Review/Action

The Planning Director shall review the Preliminary Plat to determine if it complies with the standards of Article 8 and the other applicable requirements of this Land Development Code. If the Planning Director determines that the Preliminary Plat does not comply with applicable standards, the Planning Director shall require that modifications be made to bring the Preliminary Plat into compliance with such regulations and standards. After consideration of the Preliminary Plat, the Planning Director shall act to approve, approve with modifications to bring the Preliminary Plat into compliance with this Land Development Code or deny the Preliminary Plat.

(7) Notice of Decision

Within 10 days after a Preliminary Plat decision is made by the Planning Director, copies of the decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

(8) Effect of Approval

Approval of the Preliminary Plat shall constitute acceptance of the overall planning concept for the subdivision and is a prerequisite for the filing of a Final Plat. After approval of the Preliminary Plat the applicant may proceed with the preparation of Construction Plans and submittal for a Land Development Permit.

(9) Lapse of Approval

If no Final Plat of a subdivision for which Preliminary Plat approval has been given is submitted within 12 months of the date of Preliminary Plat approval or if more than 12 months elapses between the recording a Final Plat on one phase of the subdivision and the submittal of a Final Plat for another phase, all unrecorded portions of the Preliminary Plan shall lapse and be of no further effect.

(10) Appeals

Any party aggrieved by a decision approving or denying a plat may seek to have the decision reviewed by filing an action in Superior Court seeking appropriate declaratory or equitable relief. Such action must be filed within thirty days after the written decision is rendered.

(11) Land Development Permit

After approval of the Preliminary Plat and prior to submittal of the Final Plat, the subdivider shall work directly with the City Engineer in the preparation and final design of Construction Plans for the installation of the improvements required by Article 8 and the Manual of Practice. Upon satisfactory completion of the Construction Plans and specifications and the posting any required financial

guarantees, the City Engineer shall issue a Land Development Permit for the installation of required improvements in accordance with the approved Preliminary Plan and the improvement and design standards of Article 8 and the Manual of Practice. Unless a financial guarantee is offered in accordance with this Land Development Code, installation of all required improvements must be completed by the subdivider and approved by the City Engineer prior to the submittal of a Final Plat. No land development activities shall be commenced until a Land Development Permit is issued.

C. Final Plats

(1) Improvements or Financial Guarantees

Prior to approval of a Final Plat, the subdivider shall install all required improvements or post a financial guarantee of performance, in accordance with this Land Development Code.

(2) Applicant Notice

Each application for Final Plat approval shall contain the name and address of the person who is to receive all notices pertaining to the application.

(3) Planning Director's Review/Action

The Planning Director shall review the Final Plat to determine if it complies with the approved Preliminary Plat, the standards of Article 8 and all other applicable requirements of this Land Development Code. Final Plats shall be approved only when the Planning Director determines that all of the following criteria have been met:

(a) The Final Plat conforms substantially to the approved Preliminary Plat and conforms to all other standards and requirements lawfully established under this Land Development Code;

(b) All required improvements shall be completed by the applicant or his agents and inspected and approved by appropriate public officials or agencies or a financial or performance guarantee has been offered and accepted in accordance with Sec. 8.16;

(4) All required offers to dedicate, or to reserve for future dedication, shall be made clear of all liens and encumbrances on the property and public improvements thus dedicated; and

(5) All required maintenance guarantees have been made.

(6) If the Planning Director determines that the Final Plat conforms substantially to the approved Preliminary Plat and all other standards and requirements lawfully established under this Land Development Code, the Planning Director shall approve the Final Plat.

(7) If the Planning Director determines that the Final Plat does not comply with the approved Preliminary Plat or other applicable standards, the Planning Director shall require that modifications be made to bring the Final Plat into compliance with this Land Development Code. Upon completion of any required modifications to the Final Plat, the Planning Director shall act to approve the Final Plat.

(8) Appeals

Any party aggrieved by a decision approving or denying a plat may seek to have the decision reviewed by filing an action in Superior Court seeking appropriate declaratory or equitable relief. Such action must be filed within thirty days after the written decision is rendered.

(9) Notice of Decision

Within 10 days after a Final Plat decision is made by the Planning Director, copies of the decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

(10) Effect of Approval; Recording

Within 90 days of the date of Final Plat approval, the final plat shall be recorded with the County Register of Deeds.

D. Official Acceptance of Dedications

(1) The approval of a final plat shall not be deemed to constitute or affect an acceptance by the city or the public of the dedication of any street or other ground shown upon the plat. Acceptance of such dedications within the City of Hickory shall be only by resolution of the City Council. The City Council shall consider such resolutions only when the City Engineer determines that all required improvements have been properly installed and all applicable conditions met.

(2) Pursuant to North Carolina General Statutes, the City Council may, by resolution, accept the dedication of all lands and facilities for streets, parks, public utilities or other public purposes that have been approved by the City Engineer for public dedication. The City Council shall not accept the dedication of such lands and facilities until it determines, based upon recommendation of the City Engineer, that: (i) all lands and facilities have been properly dedicated through recorded plats, deeds, or deeds of easements; (ii) all lands and facilities meet all applicable standards and have been inspected and approved by the affected departments; (iii) the subdivider has requested that the lands and facilities be accepted as public; (iv) the subdivider has provided a valuation of all lands and facilities to be dedicated to the public; and (v) the subdivider has (or shall provide) as-built drawings for all required improvements.

E. Terms and Conditions of Acceptance

The acceptance of any lands and facilities through resolution of the City Council shall be subject to the following terms and conditions:

(1) The subdivider shall guarantee all materials and workmanship for a period of 18 months from the date of official acceptance by the City Council;

(2) The acceptance by the City Council shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the city, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities that the city, its agencies or employees may assert or be entitled to;

(3) All rights, privileges and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the city and any and all benefits derived there from shall inure to the city, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever;

(4) Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build or operate any public facilities or utilities which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary sewer, storm sewer, drainage or other public utilities systems.

Sec. 2.4 Special Uses

Special uses are those uses that require, because of their inherent nature, intensity, and external effects, special care in the control of their location, site design and methods of operation.

2.4.1 Application Filing

Special Use applications shall be submitted to the Planning Director on forms available in the Planning Department. Incomplete applications shall not be fully evaluated until all necessary items outlined on the application have been submitted as prescribed.

2.4.2 Public Hearing Notice

Newspaper, posted and mailed notice of the Planning Commission's hearing shall be provided in accordance with Sec. 2.1.7. Written notice shall also be mailed to the applicant.

2.4.3 Staff Review/Report

The Planning Director shall review each proposed Special Use application in light of the Review Criteria of Sec. 2.4.5. Based on the results of those reviews, the Planning Director shall provide a report on the proposed special use to the Planning Commission.

2.4.4 Planning Commission Hearing and Decision

After receiving the Planning Director's recommendation, the Planning Commission shall hold a public hearing on the proposed Special Use. Following the public hearing (at the same or subsequent meeting), the Planning Commission shall take action to approve, approve with modifications or deny the proposed Special Use. The Planning Commission's decision shall be based on the Review Criteria of Sec. 2.4.5. In order to approve any special use petition a majority of the members of the Planning Commission must vote in favor of the petition. For the purposes of this section, vacant positions on the Commission and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Commission" for calculating the requisite majority.

2.4.5 Review Criteria

Special Use applications may be approved by the Planning Commission only if they find that all of the following criteria have been met:

A. the proposed use is consistent with the Hickory by Choice 2030 Comprehensive Plan and the stated Purpose and Intent of this Land Development Code

B. the proposed use complies with all applicable provisions of this Land Development Code;

C. the proposed use is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

D. any significant adverse impacts on neighboring properties and/or the natural environment resulting from the use will be mitigated or offset;

E. the proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;

F. public safety, transportation and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development; and

G. adequate assurances of continuing maintenance have been provided;

2.4.6 Conditions of Approval

The Planning Commission may impose such reasonable conditions, as it deems necessary (so long as the conditions do conflict with existing state or federal law) to address the impacts of the proposed development on:

A. surrounding property;

B. the existing natural and man-made features of the site;

C. off site and on site traffic flow;

D. public utilities; and

E. such other public services or goals of the Land Use and Transportation Plan that may be negatively impacted by the proposed development.

2.4.7 Quasi-judicial Hearing

The public hearing in front of Planning Commission to consider the Special Use shall be a quasi-judicial hearing and shall proceed as provided in the Planning Commission's Rules of Procedure.

2.4.8 Findings of Fact

The decision of the Planning Commission shall be accompanied by written findings of fact specifying the reasons for the decision. The findings shall be based upon substantial evidence contained in its proceedings.

2.4.9 Notice of Decision

Within 10 days after a final decision on a Special Use is made by the Planning Commission, copies of the decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

2.4.10 Withdrawal of Application

An applicant may withdraw the application at any time by written notice to the Planning Director. Any withdrawal of an application after the giving of the first public hearing notice shall be considered a denial of the application.

2.4.11 Successive Applications

When the Planning Commission denies an application or the applicant withdraws an application after the first public hearing notice has been published in the newspaper, the Planning Commission shall not consider another application for the same or Special Use affecting the same property or a portion of it until the expiration of a 1-year period, extending from the date of denial by the Planning Commission or withdrawal by the applicant.

When the Planning Commission denies an application, the applicant may not submit another application for the same or similar Special Use affecting the same property, unless the applicant can demonstrate that either changes in the applicable ordinances or material changes in site conditions or conditions near the property would support new findings of facts and conclusions by the Planning Commission.

2.4.12 Appeals

A. Authority to Appeal Special Use

Final decisions of the Planning Commission on Special Use matters may be appealed by any person having standing to challenge the decision as defined in NCGS § 160A-393.

B. Authority to Hear Appeal

Appeals of Special Use Permit decisions shall be taken to Superior Court. In order to obtain judicial review of a final decision by the Planning Commission, the person seeking review must file a petition in the Superior Court within 30 days after the final written decision has been filed in the Office of the Planning Director, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Planning Commission Secretary or Chairman at the time of the hearing on the matter, whichever comes later.

2.4.13 Final Plan Approval

The Planning Director shall review all final Special Use plans for compliance with all requirements of this Land Development Code, conditions of approval and the Special Use plan presented to the Planning Commission prior to issuance of a building permit or other development permit. The Planning Director may require a final Special Use plan to be reviewed by the other departments if he finds that there are technical issues that should be addressed by other departments of the City.

2.4.14 Minor Changes and Modifications

The Planning Director is authorized to approve minor changes in approved Special Use plans as long as they are in harmony with action of the decision-making body. The Planning Director shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the decision-making body having jurisdiction and shall be handled as a new application. The Planning Director shall use the following criteria in determining whether a proposed action is a minor change or a modification:

A. Any change in location or any increase in the size or number of signs shall constitute a modification.

B. Any increase in intensity of use shall constitute a modification. An increase in intensity of use shall be considered to be an increase in usable floor area greater than 300 square feet, an increase in number of dwellings, or change in the type of dwelling or an increase in outside land area devoted to sales, displays or demonstrations.

C. Any change in parking areas resulting in an increase or reduction of 5% or more in the number of spaces approved by the decision-making body shall constitute a modification. In no case shall the Planning Director reduce the minimum number of spaces below the minimum required by this Land Development Code.

D. Structural alterations significantly affecting the basic size, form, style, ornamentation and the like of the building, as shown on the approved plan, shall be considered a modification.

E. Substantial change in the amount or location of open space, recreation facilities or landscape screens shall constitute a modification.

F. A change in use shall constitute a modification.

G. Substantial changes in pedestrian or vehicular access or circulation shall constitute a modification.

The Planning Director shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for the approval of the special use.

If the Planning Director determines that the proposed action is a modification, they shall require the applicant to file a request for approval of the modification, which shall be submitted to the decision-making body that approved the original application. The decision-making body may approve or disapprove the application for approval of a modification and, prior to its action, may hold a public hearing thereon.

Sec. 2.5 Certificates of Appropriateness

2.5.1 Purpose and Intent

The City of Hickory's historic districts and landmarks are among the City's most valued and important assets. Historic Districts Overlay Zoning helps to preserve these districts and landmarks by regulating changes to buildings. In a historic district and for landmarks designated by the City Council, certain exterior work must be approved in advance by the Historic Preservation Commission. Approval is in the form of a Certificate of Appropriateness.

2.5.2 Applicability

A. From and after designation as an historic landmark or district no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission except as otherwise noted herein.

B. A Certificate of Appropriateness is to be issued by the Historic Preservation Commission prior to the issuance of a building permit for the purposes of constructing, altering, moving or demolishing structures. A Certificate of Appropriateness may be issued subject to reasonable conditions necessary to carry out the purposes of this section and any applicable guidelines.

C. A Certificate of Appropriateness shall be required whether or not a building permit is required, and any building permit or such other permit not issued prior to the issuance of a required Certificated of Appropriateness not in conformity with said certificated shall be invalid.

D. The State of North Carolina, the City of Hickory, and other State political subdivisions and agencies and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the City of Hickory or public utility companies.

2.5.3 Ordinary Maintenance Permitted

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in H-O districts that does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the Building Inspector or similar official shall certify in writing to the Historic Preservation Commission is required by the need to protect the public health and safety because of an unsafe or dangerous condition. Prior to beginning any exterior work in a H-O district, a property owner shall consult with the Planning Department to determine if the work qualifies as ordinary maintenance or repair or minor work or if it requires a Certificate of Appropriateness.

2.5.4 Application Filing

Applications for Certificates of Appropriateness shall be submitted to the Planning Director on forms available in the Planning Department.

2.5.5 Staff Review/Report

The Planning Director shall review each proposed Certificate of Appropriateness in light of the Review Criteria of Sec. 2.5.8 and, if deemed necessary, distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the Certificate of Appropriateness to the Historic Preservation Commission. Upon completion of the staff review, the Planning Director may determine that such work is ordinary maintenance and repair work or minor work as defined in the Historic Preservation Commission's Design Review Guidelines. In such cases the Planning Director may issue the Certificate of Appropriateness without further consideration of the Historic Preservation Commission, provided that no application may be denied without formal action of the commission. Should the Planning Director find that the work constitutes major work, as defined by the Historic Preservation Commission's Design Review Guidelines the procedures below shall be followed.

2.5.6 Public Notice

Prior to taking action on a Major Certificate of Appropriateness for major work, the Historic Preservation Commission shall hold a public hearing on the application. Newspaper, posted and mailed notice of the hearing shall be provided in accordance with Sec. 2.1.7. Written notice of the hearing shall also be mailed to the applicant.

2.5.7 Historic Preservation Commission's Decision

A. Applications for Certificates of Appropriateness shall be considered by the Historic Preservation Commission at its next regular meeting, provided a complete application has been filed by the established deadline. Otherwise, consideration shall be deferred until the following meeting.

B. The Historic Preservation Commission shall review each proposed Certificate of Appropriateness in light of the Review Criteria of Sec. 2.5.8 and take action to approve, approve with modifications or deny the proposed Certificate of Appropriateness.

C. Prior to taking final action on an application, the Historic Preservation Commission shall make written findings of fact, based on the Review Criteria of Sec. 2.5.8 , indicating the extent to which the application is or is not compatible with the historic aspects of the district in which it is located and any applicable guidelines.

D. The Historic Preservation Commission shall cause to be entered into the minutes of its meeting the reasons for its actions.

E. If the Historic Preservation Commission fails to take final action upon any application within 90 days after the complete application is submitted to the Planning Director, the application shall be deemed to be approved without conditions. This time limit can be extended by mutual agreement between the applicant and the Historic Preservation Commission.

2.5.8 Review Criteria

A. It is the intention of these regulations to ensure, insofar as possible, that buildings or structures in H-O districts shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of them or to impose architectural styles from particular historic periods. In considering new construction, the Historic Preservation Commission may encourage contemporary design that is harmonious with the character of the district or landmark.

B. In granting a Certificate of Appropriateness, the Historic Preservation Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure or property, as well as the effect of such change or additions upon other structures or properties in the vicinity.

C. The Historic Preservation Commission shall make no requirement except to prevent work that is incongruous with the historic district or landmark.

D. Applicants for Certificates of Appropriateness shall consult the Historic Preservation Commission's Design Review Guidelines and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings. These guidelines are used by the Historic Preservation Commission to administer these regulations and to answer frequently asked questions.

E. Exterior Form and Appearance

The Historic Preservation Commission shall base its decision on Historic Preservation Commission's Design Review Guidelines and the criteria listed below.

(1) Building height.

(2) Setback, lot coverage, yards, orientation and positioning of the building, and spacing of buildings.

(3) Materials, surface textures and patterns.

(4) Architectural detailing.

(5) Roof shapes, forms, and materials.

(6) Fenestration proportions, shapes, position and location, and pattern

(7) General form and proportions of buildings and structures

(8) Appurtenant features and fixtures including, but not limited to, lighting, walls, and fences.

2.5.9 Interior Arrangement Not Considered Without Permission of Owner

The Historic Preservation Commission shall not consider interior arrangement unless consent for interior review has been given by the owner in compliance with G.S. §160A-400.9(b). Said consent of an owner for interior review shall bind future owners and/or successors in title, provided written proof of the consent has been recorded in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indices. Any landmark designation shall specify the interior features to be reviewed and the specific nature of the Historic Preservation Commission's jurisdiction over the interior.

2.5.10 Delay in Demolition or Relocation of Buildings or Sites

A. Except as provided in subsection 2.5.10(A), an application for a Certificate of Appropriateness authorizing the demolition or relocation of a historic landmark or a building, structure, or site within an H-O district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Historic Preservation Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Historic Preservation Commission or its agent shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building, structure, or site. If the Historic Preservation Commission finds that the building, structure or site has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

An application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Historic Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

B. If the Historic Preservation Commission has formally voted to recommend application of the H-O zoning designation to a property or district, and final designation has not been made by the City Council, the demolition of any building, structure or site located on the property of the proposed H-O, historic district may be delayed by the Historic Preservation Commission for a period of up to 180 days or until the City Council takes final action on the designation, whichever comes first.

2.5.11 Site Visits by Commission

As part of its review procedure, the Historic Preservation Commission may view the premises and seek the advice of the State Historic Preservation Office or such other expert advice as it may deem necessary under the circumstances.

2.5.12 Successive Applications

If the Historic Preservation Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

2.5.13 Appeals *(TA 14-02)*

Any aggrieved party may appeal the issuance or denial of a Major Certificated of Appropriateness to the Board of Adjustment. In order to obtain review of a final decision by the Historic Preservation Commission, the person seeking review must submit a petition in the form of a written request to the Planning Director and City Clerk within 30 days of the final written decision. Such appeals must include the reason the appeal is being sought. Appeals are in the nature of certiorari, which means that the Board of Adjustment will review the decision for legal errors, but no new evidence shall be taken. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court.

2.5.14 Lapse of Approval *(TA 12-01)*

All Certificates of Appropriateness shall expire one year from the date of issuance. The Historic Preservation Commission may grant an extension of up to one year, provided that the Commission finds that substantial progress has been made or that the recipient has encountered unforeseen difficulties that have caused the delay.

2.5.15 Compliance *(TA 12-01)*

A. Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Planning Director. Failure to comply with a Certificate of Appropriateness shall be a violation of this Land Development Code and punishable as provided in Article 13.

B. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of one year shall be considered as a failure to comply with a Certificate of Appropriateness. Nothing contained in this Land Development Code shall prohibit, impair, or limit in any way the power of the City of Hickory to prevent the construction, reconstruction, alteration, restoration or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the historic (H-O) districts in violation of the provisions of this Land Development Code. The enforcement of any remedy provided herein shall not prevent the use of any other remedy or remedies provided herein or in other ordinances or laws. (See G.S. 160A-175 and 160A-389)

Sec. 2.6 Zoning Compliance Permits

2.6.1 Applicability

It shall be unlawful to begin the excavation, construction, moving, alteration, or repair, except ordinary repairs, for or any building or other structure, including an accessory structure, valued at more than $25.00 or exceeding 100 square feet in area, until the Planning Director has issued for such work a zoning compliance permit. Also, it shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, including accessory structure; or to extend any use or any lot on which there is a nonconforming use, until the Planning Director has issued for such intended use a zoning compliance permit, including a determination that the proposed use does, in all respects, conform to the provisions of this Land Development Code.

2.6.2 Timing of Application

In all cases where a building permit is required, application for a zoning compliance permit shall be made coincidentally with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this section (See "Applicability," Sec. 2.6.1). Zoning compliance permits are required before work may begin on any project previously approved through subdivision plat approval, the issuance of a special use permit or conditional zoning district approval.

2.6.3 Application Filing

Zoning compliance permit applications shall be made in writing to the Planning Director on forms provided for that purpose and available in the Planning Department. The Planning Director shall keep a record of all such applications on file.

2.6.4 Contents of Application

Every application for a zoning compliance permit shall be accompanied by a written statement and plans or plats, drawn to scale, showing the following in sufficient detail to enable the Planning Director to ascertain whether the proposed work or use is in conformance with the provisions of this Land Development Code:

A. the actual shape, location, and dimensions of the lot; if the lot is not a lot of record, sufficient data to locate the lot on the ground;

B. the shape, size and location of all buildings or other structures to be erected, altered or moved and of any other buildings, or other structures already on the lot;

C. the existing and intended use of the lot and of all structures upon it; and

D. such other information concerning the lot, adjoining lots, or other matters as may be essential for determining whether the provisions of this Land Development Code are being observed including, but not limited to, parking, landscaping, screening, buffering, signage, flood hazards, and floor areas.

2.6.5 Planning Director's Review and Action

A. If the proposed activity is in conformity with the provisions of this Land Development Code, the Planning Director shall issue a zoning compliance permit, provided that all of the following conditions shall apply:

(1) issuance of a zoning compliance permit shall in no case be construed as waiving any provisions of this Land Development Code;

(2) the Planning Director shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this Land Development Code to any person making application to excavate, construct, move, alter or use buildings, structures or land;

(3) the Planning Director shall not make any changes to this Land Development Code or vary the terms of this Land Development Code;

(4) the Planning Director shall issue a permit when the imposed conditions of this Land Development Code are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties.

(5) The zoning compliance permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this Land Development Code. Prior to the issuance of a Zoning Compliance Permit, the Planning Director shall consult with all applicable departments.

B. If the proposed activity is not in conformity with the provisions of this Land Development Code, the Planning Director shall not issue a zoning compliance permit. If an application for a zoning compliance permit is disapproved, the Planning Director shall state in writing the cause of such disapproval and provide written notice to the applicant.

2.6.6 Lapse of Approval

Once a zoning compliance permit is issued, all activities pursuant to such permit shall be commenced within 12 months. If the proposed excavation, construction, moving, alteration or use of land, as set forth in an application for a zoning compliance permit is not commenced within 12 months and diligently pursued to completion, the zoning compliance permit shall lapse and be of no further force and effect.

Sec. 2.7 Zoning Compliance Certificates

No building, structure or zoning lot for which a zoning compliance permit has been issued shall be used or occupied until the Planning Director has, after final inspection, issued a certificate of zoning compliance indicating compliance has been made with all the provisions of this Land Development Code. The issuance of a certificate of zoning compliance shall in no case have the effect of nor be construed as waiving the provisions of this Land Development Code.

Sec. 2.8 Variances

2.8.1 Applicability

This section sets out the procedure for gaining approval of variances from the zoning-related standards of this Land Development Code. Variances are intended to address practical difficulties or unnecessary hardships resulting from strict application of zoning standards. The variance procedures of this section shall not be used to permit a use in a zoning district that is not otherwise allowed in that district, nor shall the procedures of this section be used to vary or waive the subdivision standards of this Land Development Code.

2.8.2 Application Filing

Applications for zoning variances shall be submitted to the Planning Director on forms available in the Planning Department.

2.8.3 Public Hearing Notice

Newspaper, posted and mailed notice of the Board of Adjustment hearing shall be provided in accordance with Sec. 2.1.7. Written notice of the hearing shall also be mailed to the applicant.

2.8.4 Board of Adjustment's Review and Decision

The Board of Adjustment shall hold at least one public hearing on the proposed zoning variance. Following the hearing (at the same or subsequent meeting), the Board of Adjustment shall take action to approve, approve with modifications or deny the proposed zoning variance. An affirmative vote of a least 4/5 of the total membership of the Board of Adjustment shall be required to approve any zoning variance. For the purposes of this section, vacant positions on the board and members who are disqualified from voting shall not be considered "members of the

board" for the calculation of requisite supermajority if there are no qualified alternates to take the place of such members.

2.8.5 Approval Criteria *(TA 14-01)*

Zoning variances may be approved only when the Board of Adjustment finds substantial evidence in the official record and the application to support all the following findings:

A. unnecessary hardship would result from the strict application of this Land Development Code. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

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

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

D. the requested variance is consistent with the spirit, purpose and intent of the Land Development Code, such that public safety is secured, and substantial justice is achieved.

2.8.6 Conditions

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

2.8.7 Quasi-judicial Hearing

The Board of Adjustment's public hearing to consider the application shall be a quasi-judicial hearing and shall be conducted as provided in the Planning Commission's Rules of Procedure.

2.8.8 Findings of Fact

All decisions on zoning variances shall be supported by an affirmative finding of fact on each of the approval criteria of Sec. 2.8.5. Each such finding shall be supported by substantial evidence in the record of proceedings.

2.8.9 Notice of Decision *(TA 14-01)*

Within 30 days after a final zoning variance decision is made by Board of Adjustment, copies of the written decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

2.8.10 Appeals

Any person aggrieved by a zoning variance decision of the Board of Adjustment, may appeal the decision to the Superior Court of the county where the property is located. Such an appeal must be filed within 30 days of the filing by the Secretary of the Board of Adjustment of the decision in the office of the Planning Director or the delivery of a copy of the decision to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board of Adjustment at the time of the hearing of the variance request, whichever is later.

Sec. 2.9 Written Interpretations

2.9.1 Application Filing

Applications for written interpretations of this Land Development Code shall be submitted to the Planning Director on forms available in the Planning Department.

2.9.2 Planning Director's Review and Decision

Within 30 days of receipt of a complete application for a written interpretation, the Planning Director shall: (1) review and evaluate the application in light of this Land Development Code, the Hickory by Choice 2030 Comprehensive Plan and any other relevant documents; (2) consult with other staff, including the City Attorney, as necessary; and (3) render a written interpretation.

2.9.3 Form

The interpretation shall be provided to the applicant in writing and shall be filed in the official record of interpretations.

2.9.4 Official Record of Interpretations

An official record of interpretations shall be kept on file in the office of the Planning Department. The record of interpretations shall be available for public inspection in the Planning Department during normal business hours.

2.9.5 Appeals

Appeals of written interpretations of the Planning Director may be taken to the Board of Adjustment in accordance with procedures of Sec. 2.10. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations.

Sec. 2.10 Appeals of Administrative Decisions

2.10.1 Authority and Applicability

The Board of Adjustment shall be authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this Land Development Code.

2.10.2 Application Filing *(TA 14-01)*

Appeals of administrative decisions in the form of a written request shall be submitted to the Planning Director and City Clerk. Appeals must include the reason the appeal is being sought. Appeals of administrative decisions shall be filed within 30 days of the date that the administrative official's decision is given to the applicant.

2.10.3 Effect of Filing *(TA 14-01)*

The filing of a complete application for appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Adjustment, after the appeal is filed, that, because of facts stated in the certification, (a) that a stay would cause immediate peril to life or property or (b) that the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of this Land Development Code. In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusion. In such case, proceedings shall not be stayed other than by a restraining order, or by a court of record on application, on notice to the officer from whom the appeal is take and on due cause shown. Should enforcement action not be stayed, the appellant may file a request for an expedited hearing with the Board of Adjustment per NCGS §160A-388(b1)(6).

2.10.4 Record of Administrative Decision *(TA 14-01)*

The official whose decision is being appealed shall transmit to the Board of Adjustment all papers constituting the record upon which the action appealed is taken. The official shall also provide copies of the record to the appellant and to the owner(s) of the property that is subject of the appeal if the appellant is not the owner.

2.10.5 Public Hearing Notice *(14-01)*

Newspaper, mail, and posted notice of the Board of Adjustment's hearing shall be provided in accordance with Sec 2.1.7. Written notice of the hearing shall be mailed to the applicant.

2.10.6 Board of Adjustment Review and Decision *(TA 14-01)*

A. The Board of Adjustment shall hold a public hearing on the appeal and, following the close of the public hearing, take final action based on the procedures and requirements of this section.

B. The zoning official who made the final determination shall be a witness at the hearing.

C. In exercising the appeal power, the Board of Adjustment shall have all the powers of the official from whom the appeal is taken, and the Board of Adjustment may reverse or affirm wholly or partly or may modify the decision being appealed.

D. If the Board of Adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.

E. An affirmative vote of a majority of the total membership of the Board of Adjustment, excluding vacant seats and disqualified members, shall be required to reverse, in whole or in part, any order, requirement, decision, or determination of any administrative official. Notwithstanding the foregoing and in accordance with G.S. § 63-33(c), the concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of any administrative official pertaining to the requirements of Sec. 4.6, "Airport Overlay District."

2.10.7 Approval Criteria; Findings of Fact

The Board of Adjustment may reverse an order, requirement, decision, or determination of any administrative official only when the Board of Adjustment finds substantial, factual evidence in the official record of the application that the administrative official erred. The decision of the Board of Adjustment shall be shall be supported by written findings of fact.

2.10.8 Notice of Decision *(TA 14-01)*

Within thirty (30) days after a final decision on an administrative appeal is made by the Board of Adjustment, copies of the written decision shall be sent to the applicant and filed in the office of the Planning Director, where it shall be available for public inspection during regular office hours.

2.10.9 Appeals

Any person who is directly affected by a decision of the Board of Adjustment may appeal the decision to the Superior Court of the county where the property is located. An appeal to Superior Court must be filed within 30 days of the filing by the Secretary of the Board of Adjustment of the decision in the office of the Planning Director or the delivery of a copy of the decision to every aggrieved party who has filed a written request for such copy with the Secretary or

Chairman of the Board of Adjustment at the time of the hearing of the appeal request, whichever is later.

Sec. 2.11 Review and Decision Making Bodies

2.11.1 City Council

A. Powers and Duties

The City Council shall have the following powers and duties under this Land Development Code.

(1) Land Development Code Text and Zoning Map Amendments

The City Council shall review applications for amendments to the text or zoning map of this Land Development Code and make a decision in accordance with Sec. 2.2.

B. Conflicts of Interest

A City Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have direct, substantial, and readily identifiable financial impact on the member.

2.11.2 Planning Commission

A. Powers and Duties

The Planning Commission shall have the following powers and duties under this Land Development Code:

(1) Land Development Code Text and Zoning Map Amendments

The Planning Commission shall review applications for amendments to the text zoning map of this Land Development Code and make recommendations on such amendments to the City Council in accordance with Sec. 2.2.

(2) Special Use Permits

The Planning Commission shall review and take final action on all Special Use Permits in accordance with Sec. 2.4.

B. Appeals of Planning Commission

Recommendations of the Planning Commission regarding text and map amendments are not appealable. Special use permit decisions may be appealed to the Superior Court by filing a petition for review in the nature of certiorari within 30 days of the filing of a written decision in the office of the Planning Director or the delivery of a copy of the decision to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the board at the time of the hearing of the special use permit request.

2.11.3 Board of Adjustment

A. Composition

The Hickory Board of Adjustment shall be composed of the members of the Planning Commission. The City Council may appoint alternative members to serve on the Board of Adjustment in the absence or temporary disqualification of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending a meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member.

B. Administration

(1) The Board of Adjustment shall adopt rules of procedures and regulations for the conduct of its affairs.

(2) All meetings of the Board of Adjustment shall be open to the public.

(3) The Board of Adjustment shall keep a record of its meetings, including the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it and all official actions.

(4) Pursuant to G.S. §160A-388(g), the Board of Adjustment may subpoena witnesses and compel the production of evidence.

(5) The Chair of the Board of Adjustment rules on request for, and objections to subpoenas. Appeals to subpoenas shall go to the full board (NCGS §160A-388(g).

(6) The zoning official shall provide copies of all documents and exhibits related to a determination that is being appealed to the Board of Adjustment, the appellant, and the land owner.

(7) In the event of an appeal the appellant may request an expedited hearing if the appellant's request for a stay of enforcement is denied.

(8) The zoning official making the final determination that is being appealed must appear at the hearing as a witness.

(9) The Board of Adjustment shall continue any hearing if issues are presented that were not included in the notice of appeal and immediate consideration would unduly prejudice a party or the City of Hickory.

(10) When hearing an appeal to a decision of the Historic Preservation Commission, pursuant to G.S. § 160A-400.9(e), or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. § 160A-393(k).

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

C. Quorum and Vote Required *(TA 14-01)*

(1) A quorum of the Board of Adjustment, necessary to conduct any business of the Board of Adjustment, shall consist of a simple majority.

(2) The concurring vote of 4/5 of the full membership of the Board of Adjustment, excluding vacant seats and disqualified members, shall be necessary in order to grant a variance.

(3) An affirmative vote of a majority of the total membership of the Board of Adjustment, excluding vacant seats and disqualified members, shall be required to reverse, in whole or in part, any order, requirement, decision, or determination of any administrative official.

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

D. Powers and Duties

The Board of Adjustment shall have the following powers and duties under this Land Development Code.

(1) Zoning Variances

The Board of Adjustment shall be responsible for reviewing and taking final action on Zoning Variance requests in accordance with Sec. 2.8.

(2) Appeals of Administrative Decisions

The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this Land Development Code. (See Sec. 2.10).

(3) Appeals of Certificates of Appropriateness Decisions

The Board of Adjustment shall hear and decide appeals of Certificates of Appropriateness by staff and the Historic Preservation Commission. Such appeals shall be heard in the nature of certiorari.

(4) Request for Waiver of Requirements

The Board of Adjustment shall consider requests for waivers of requirements in accordance with Secs. 4.4.8 and 4.4.9.

E. Appeals of Board of Adjustment Actions

Every decision of the Board of Adjustment shall be subject to review at the instance of any aggrieved party by the Superior Court by filing a petition for review in the nature of certiorari within 30 days of the filing of a written decision in the office of the Planning Director or the delivery of a copy of the decision to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the board at the time of the hearing on the matter.

F. Conflicts on Quasi-Judicial Matters

A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a close financial interest in the outcome of the matter. If an objection is raised to a member's participation and that

member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.11.4 Historic Preservation Commission

A. Powers and Duties

The Historic Preservation Commission, as established in Chapter 6, Article VI of the Hickory City Code, shall have the following powers and duties under this Land Development Code:

(1) Certificates of Appropriateness

The Historic Preservation Commission shall review and take final action on such applications in accordance with Sec. 2.5.

(2) Historic District and Landmark Designation

The Historic Preservation Commission shall review and make a recommendation to the City Council on all proposed Historic Districts and Landmarks as described in Sec. 4.4.

(3) Authentic Restoration or Reconstruction

As described in Sec. 4.4.8, the Historic Preservation Commission may recommend that the Board of Adjustment grant a waiver of dimensional requirements of this Land Development Code for an activity that constitutes an authentic restoration or reconstruction.

(4) Parking Waiver

As described in Sec. 4.4.9, upon a finding that the number of parking spaces required by this Land Development Code would render the building incongruous with the special character of the historic district or landmark, the Historic Preservation Commission may recommend that the Board of Adjustment waive or reduce the required number of parking spaces.

(5) Special Use Permit Applications

When a Special Use Permit application affects a property that is located within an H-O district, the Historic Preservation Commission shall review and comment on the proposed application within 30 days of the receipt of said application.

B. Conflicts of Interest

(1) Quasi-Judicial Decisions

A member of the Historic Preservation Commission shall not participate in or vote on any Certificate of Appropriateness or request for a waiver requirements pursuant to Secs. 4.4.8 and 4.4.9 in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a close financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(2) Other Matters

A members of the Historic Preservation Commission shall not vote on any other matters where the outcome of the matter being considered is reasonably likely to have direct, substantial, and readily identifiable financial impact on the member.

Article 3 **Base Zoning Districts**

Sec. 3.1 Residential Zoning Districts

3.1.1 The following residential zoning districts are hereby established:

Full Name	Short Name/Map Symbol
Low Density Residential	R-1
Medium Density Residential – 2	R-2
Medium Density Residential – 3	R-3
High Density Residential – 4	R-4

3.1.2 Characteristics of Residential Zones

A. The Low Density Residential (R-1) district implements the "Low Density Residential" policies of the Hickory by Choice 2030 Comprehensive Plan. The R-1 zoning district is the lowest density residential district in the City of Hickory. It is intended for large lot single-family, including manufactured housing. It allows a maximum density of 2 dwelling units per acre. Public infrastructure, when available, is required to serve this type of development. Characteristics of these areas include the following:

(1) Large lot suburban single-family subdivisions,

(2) Conservation subdivisions, and

(3) Automobile oriented.

B. The Medium Density Residential (R-2) district implements the "Medium Density Residential" policies of the Hickory by Choice 2030 Comprehensive Plan. The R-2 zoning district is composed of predominately single-family detached development. It allows a maximum density of 4 dwelling units per acre. Public infrastructure is required to serve this type of development. Characteristics of these areas include the following:

(1) Suburban single-family subdivisions,

(2) Conservation subdivisions,

(3) Larger homes and lots, and

(4) Automobile oriented.

C. The Medium Density Residential (R-3) district implements the "Medium Density Residential" policies of the Hickory by Choice 2030 Comprehensive Plan. The R-3 zoning district is composed of single-family residential development (attached and detached) and two-family residences, and small scale multi-family residential developments. It allows a maximum density of 8 dwelling units per acre. The R-3 zone acts as a transition zone between lower density residential development and non-residential development. These areas are located directly adjacent or within commercial service areas but not further than ¼ mile from these areas. Public infrastructure is required to serve this type of development. Characteristics of these areas include the following:

(1) Small lot single and two family development,

(2) Small scale multi-family development,

(3) Increased transportation options (pedestrian, bicycle, and transit), and

(4) Increased access to commercial/ service and cultural and civic areas.

D. The High Density Residential (R-4) district implements the "High Density Residential" policies of the Hickory by Choice 2030 Comprehensive Plan. The R-4 zone is the highest density residential zoning district. It is primarily composed of multi-family residential development, as well as small lot single-family development. The R-4 district also provides areas for manufactured housing. It allows a maximum density of 20 dwelling units per acre. These areas are located directly adjacent or within commercial service areas but not further than ¼ mile from these areas. Public infrastructure is required to serve this type of development. Characteristics of these areas include the following:

(1) Larger scale multi-family development,

(2) Small lot single-family residential, and

(3) Opportunities for the replacement of existing manufactured home stock.

E. Design Standards for Nonresidential Buildings

Nonresidential buildings in the R-1, R-2, R-3, and R-4 zoning districts shall be subject to the design standards of Sec. 3.4.4(B-F).

Sec. 3.2 Non-Residential Zoning Districts

3.2.1 The following non-residential zoning districts are hereby established:

Full Name	Short Name/Map Symbol
Neighborhood Center Commercial	NC
Community Center Commercial	CC-1
Commercial Corridor	CC-2
Office and Institutional	OI
Central Business District	C-1
General Business	C-2
Regional Commercial	C-3
Industrial	IND

3.2.2 Characteristics and Intent of Commercial Zones

A. Neighborhood Center Commercial

The Neighborhood Center Commercial (NC) district implements the "Neighborhood Mixed Use" policies of the Hickory by Choice 2030 Comprehensive Plan, and promotes the most pedestrian oriented development of the non-residential zones. A neighborhood center will be approximately one-quarter mile in radius. Generally, neighborhood centers are located at intersections of major thoroughfares and further identified in the Hickory by Choice 2030 Comprehensive Plan. Neighborhood centers are intended to provide neighborhood scaled services. Additional standards apply to ensure pedestrian scaled development.

B. Community Center Commercial

The Community Center Commercial (CC-1) district implements the "Community Commercial" policies of the Hickory by Choice 2030 Comprehensive Plan, and promotes a pedestrian oriented development while accommodating the automobile, and transit. Generally, community centers serve a larger market than neighborhood centers providing opportunities for "big-box or "superstore" anchors.

C. Commercial Corridor

The Commercial Corridor (CC-2) district is intended to implement the "Commercial Corridor" policies of the Hickory by Choice 2030 Comprehensive Plan. Generally, properties having frontage and located along NC 127 and Springs Road will be designated CC-2. Commercial development in this district is intended to be automobile focused, while providing adequate pedestrian accommodation.

D. Office and Institutional District

The Office and Institutional (OI) district implements the "Public/Institutional", "Mixed Use Neighborhood Center", "Community Center Commercial", and "General Business" policies of the Hickory by Choice 2030 Comprehensive Plan. The OI district is intended to provide locations for the development of institutions of higher learning and medical hospitals within "Public/Institutional" areas, as identified with the Hickory by Choice Comprehensive Plan. The OI district is also intended to provide for transitional land-uses between residential and commercial uses. OI districts providing transitional areas are generally characterized as smaller sites allowing for small-scale offices.

E. Central Business District

The Central Business District (C-1) implements the "Central Business District" policies of the Hickory by Choice 2030 Comprehensive Plan. The C-1 is intended to preserve and enhance downtown Hickory's role as a commercial, financial, cultural and governmental center. In recognition of the downtown area's historic building pattern and the community's planning goals, the C-1 district is intended to be a physically predictable, pedestrian oriented environment. The standards that apply in the district are intended to create and maintain an appealing environment for people who work and live downtown, as well as those who come to the area for goods, services, entertainment or leisure.

F. General Business District

The General Business (C-2) district implements the "General Business" policies of the Hickory by Choice 2030 Comprehensive Plan. The C-2 district is intended to establish suitable development standards for the provision of convenience goods, shopper goods and services at locations along major transportation routes that serve both local and pass-through traffic.

G. Regional Commercial District

The Regional Commercial (C-3) district implements the "Regional Commercial" policies of the Hickory by Choice 2030 Comprehensive Plan. The C-3 district is intended to provide a full range of retail and service business that serves both local and regional markets. Generally, regional business is focused on I-40, U.S. 70, and U.S. 321 because it provides convenient access for city residents as well as people in the surrounding counties. These areas also minimize opportunities for land use conflicts with single family development.

H. Industrial

The Industrial (IND) district implements the "Industrial" policies of the Hickory by Choice 2030 Comprehensive Plan. The IND District is intended to provide locations for the development of land uses generally devoted to manufacturing, processing and assembly, warehousing, distribution and servicing enterprises and office activities controlled by performance standards to limit the effect of such uses on uses within the district and on adjacent districts.

3.3.1 Architectural Compatibility Design Standards

The following design guidelines shall apply to all development within the NC and CC-1 zoning districts.

A. Buildings along Street

At least some portion of the development site contributes to activity along the sidewalk.

B. Guidelines

(1) Vehicle service areas may be located in the fronts of buildings provided they are screened from view from all adjacent rights of way. *(TA 11-01)*

(2) Buildings placed along the sidewalk shall have windows and doors facing the street consistent with Façade Transparency (Sec. 3.3.8) and incorporate architectural features consistent with Ground Level Details (Sec. 3.3.2) and Treatment of Blank Walls (Sec. 3.3.6).

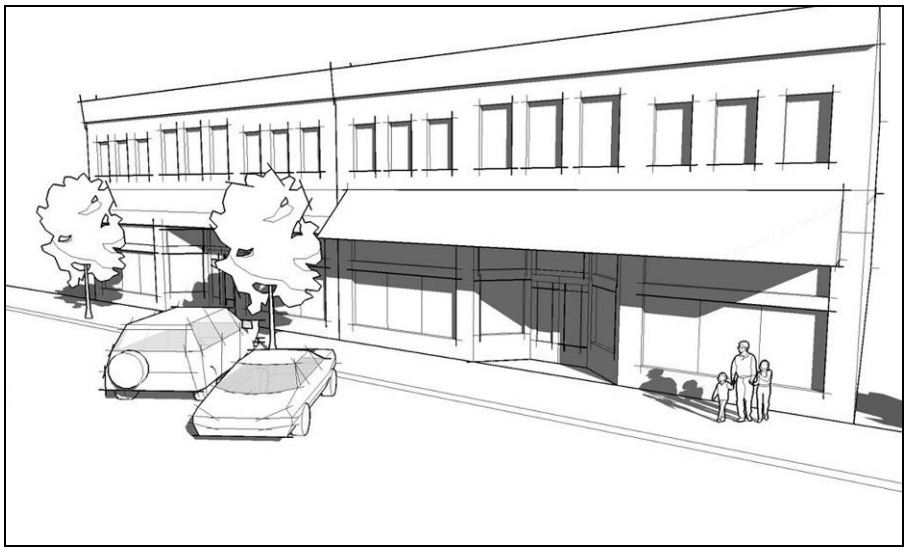


Figure 3-1: Buildings Along Sidewalk

C. Architectural Style

Forms and finish materials of buildings, signage, gasoline pump canopies and other accessory structures shall be compatible with the architectural character of the adjacent area through compliance with the following standards:

(1) Any side or rear of a building that is visible from the public right-of-way shall be as visually attractive as the front through the design of rooflines, architectural detailing and landscaping features.

(2) Service, loading, and trash collection areas shall be screened by a combination of decorative walls of masonry, wood, and plantings

(3) Loading areas shall not face any residential districts.

D. Roofs

(1) Parapets or other architectural elements shall be used to conceal flat roofs and rooftop equipment such as HVAC units from public view.

(2) Wireless communication equipment should be blended into the design of the roof.

E. Materials and colors

(1) Predominant exterior building materials shall consist of, but not limited to, brick, sandstone, stucco, and other native stone and tinted/textured concrete masonry units. Synthetic materials offering similar appearances may also be utilized. Smooth faced concrete block and corrugated metal panels are prohibited. *(TA 11-01)*

(2) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors is prohibited.

(3) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

F. Customer Entrance

Retail establishments on a site shall have a clearly defined, highly visible customer entrance.

G. Other Improvements

Vending machines, ATMs and similar features shall be integrated into the architecture of the building and shall not encroach on pedestrian walkways.

3.3.2 Ground Level Details

The intent of this section is to ensure buildings display visual interest and reinforce the pedestrian character of the street.

A. Guidelines

(1) Facades of commercial and mixed-use buildings within Neighborhood and Community Centers shall be designed to be pedestrian friendly through the inclusion of at least three of the following elements:

(a) Kickplates for storefront windows

(b) Projecting sills

(c) Pedestrian scaled signs

(d) Canopies

(e) Plinths

(f) Containers for seasonal plantings

3.3.3 Sidewalk Encroachments

The intent of this section is to ensure there is a minimum unobstructed walking route along sidewalks.

A. Guidelines

Temporary sidewalk encroachments are allowed with City Council approval. Café seating, planters, ramps, and stairs, which are located in the sidewalk shall be located to provide a pathway that is compliant with the standards of the Americans with Disabilities Act (ADA) or a minimum of four (4) feet wide; whichever is greater. *(TA 11-01)*

3.3.4 Curb Cut Limitations

The intent of this section is to provide safe convenient vehicular access without compromising pedestrian safety.

A. Guidelines

(1) Curb cuts for non-residential uses shall not exceed 30 feet in width for combined entry/exits. *(TA 11-01)*

Figure 3-2: Sidewalk Setback from Driveway with Continuous Sidewalk Pattern

(2) Sidewalk patterns shall carry across driveway.

(3) Adjacent development should share driveways to the greatest extent possible.

(4) Vehicular access shall be located to avoid directing traffic through abutting residential zone.

3.3.5 Screening and Noise Control of Service Areas

The intent of this section is to reduce the impact of service, loading and trash storage areas.

A. Guidelines

(1) All service, loading, and trash collection areas that are visible from public rights-of-way, pedestrian pathways, or residential zones shall be screened by a combination of decorative walls of masonry, wood, and plantings.

(2) Loading and service areas shall be fully screened from view from residentially zoned property. *(TA 11-01)*

3.3.6 Treatment of Blank Walls

The intent of this section is to ensure buildings do not display blank walls to adjacent street or residential areas.

A. Guidelines

Walls or portions of walls where windows are not provided shall have architectural treatment wherever that face is adjacent to a street or residential zoning district. At least four of the following shall be used in these walls: *(TA 11-01)*

(1) Concrete or masonry plinth at the base of the wall,

(2) Transition lines of different texture or color,

(3) Projecting cornices,

(4) Decorative tile work,

(5) Projecting canopy,

(6) Trellis containing plantings,

(7) Opaque or translucent glass,

(8) Artwork,

(9) Vertical articulation,

(10) Lighting fixtures, or

(11) Other architectural element as approved that meets intent above.

Figure 3-3: Treatment of Blank Walls

3.3.7 Prominent Entrances

The intent of this section is to ensure building entrances are easily identifiable and clearly visible from streets and sidewalks

A. Guidelines

(1) The principal entry to a building should be marked by ornamentation around the door and at least one of the following:

(a) Recessed entrance of at least 3 feet,

(b) Protruding entrance of at least 3 feet,

(c) Canopy extending at least 5 feet,

(d) Portico extending at least 5 feet, or

(e) Overhang extending at least 5 feet.

3.3.8 Façade Transparency

The intent of this section is to provide visual connection between the activities inside and outside the building.

A. Guidelines

(1) For all nonresidential redevelopment a minimum of 15% of any ground floor façade that is visible from and fronting on abutting streets shall be comprised of windows with clear glass allowing views into the interior.

(2) For all new non-residential development a minimum of 30% of any ground floor façade that is visible from and fronting on abutting streets shall be comprised of windows with clear glass allowing views into the interior. Display windows or translucent glass may be used to meet half this requirement.

3.3.9 Building Standards for Large Buildings

The following additional standards apply to all single and multiple tenant buildings containing more than 25,000 square feet of gross floor area.

A. Facades and Exterior Walls

(1) Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3 percent of the length of the facade and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 100 feet (horizontal).

(2) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than 30% of their horizontal length (see Figure 3-4).

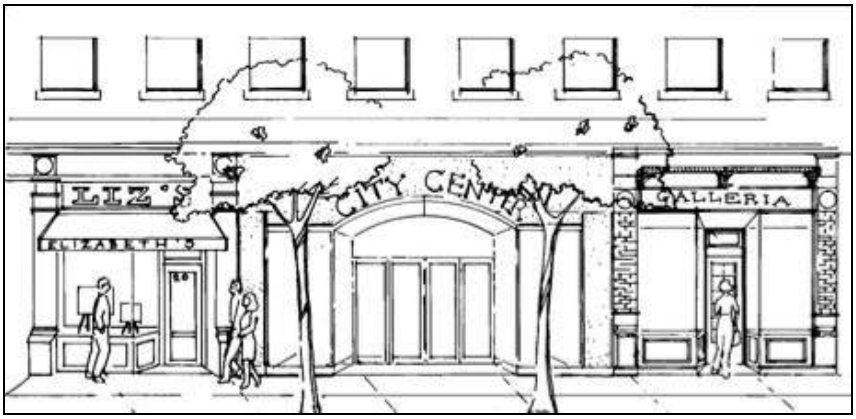


Figure 3-4: Ground Floor Façade

B. Entryways

(1) Each large retail establishment on a site shall have clearly defined, highly visible customer entrance and featuring no less than 3 of the following:

(a) canopies or porticos;

(b) overhangs;

(c) recesses/projections;

(d) arcades;

(e) raised corniced parapets over the door;

(f) peaked roof forms;

(g) arches;

(h) outdoor patios;

(i) display windows; or

(j) architectural details such as tile work and moldings which are integrated into the building structure and design;

(2) All building facades that are visible from adjoining properties and/or public streets shall comply with the requirements noted above.

3.3.10 Outdoor Lighting

Outdoor lighting must comply with Sec. 9.8

3.3.11 Parking and Loading Areas

A. Retail sales/service uses within the NC district, which are less than 2,000 square feet in size, shall be exempt from off-street parking requirements.

B. The use of on-street parking is encouraged in the center districts. When off-street parking spaces are required or provided, they shall be subject to all parking/loading area design, construction, landscaping standards, and screening requirements.

C. Parking garages must present a horizontal rather than sloped building line on all visible edges. The exterior finish of parking structures shall be compatible with adjacent buildings and give the appearance of buildings, not parking garages.

D. Loading and service areas shall be screened from view from adjacent properties and streets.

E. Pedestrian Access

(1) Purpose

Pedestrian access is required to ensure pedestrian connection between the buildings on the site and the public right-of-way and between adjacent sites. Pedestrian access shall be designed to the standards in this section.

(2) Connections

(a) Street Connections

The pedestrian system must connect all adjacent streets and sidewalks to the main entrance.

(b) Internal Connections

The system must connect all buildings on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common open space areas, and all pedestrian amenities.

(c) Adjacent Connections

The system should connect to adjacent sites and, if available, adjacent pedestrian networks.

(d) Materials

The circulation system must be hard surfaced, and be constructed in accordance with the Manual of Practice.

(e) Where the system crosses driveways, parking areas, and loading areas, the system must be clearly identifiable through the use of elevation changes, pedestrian tables, a different paving material, or other similar method.

(f) Where the system is parallel and adjacent to a vehicle travel lane, the system must be a raised path or be separated from the vehicle travel lane by a raised curb, bollards, landscaping or other physical barrier.

3.3.12 Connectivity

Non-residential sites shall be designed to provide connectivity to adjoining parcels and rights of way. This requirement may be waived if deemed impractical or undesirable by the Planning Director.

3.3.13 Public Transit

Commercial sites shall be designed to accommodate public transit vehicles when such service is determined appropriate by the City.

3.3.14 Alternative Standards

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4.

Sec. 3.4 Commercial Corridor (CC-2), Office and Institutional (OI), General Business (C-2) Zones, and Regional Commercial (C-3) Zones

3.4.1 Applicability

The following standards shall apply to all properties in the CC-2, OI, C-2, and C-3 zoning districts.

3.4.2 Compatibility Design Standards

Residential Protection *(TA 11-01)*

(1) No non-residential building greater than 4,000 square feet in total floor area shall be oriented towards a local street or have its primary access from a local street.

(2) No gasoline pump islands or drive-through service windows shall be located within 100 feet of any residential zoning district.

3.4.3 Building Size Limitations for Certain Districts

A. Commercial Corridor (CC-2) size restriction

No single tenant building shall exceed 50,000 square feet total gross floor area and no multi-tenant building shall exceed 60,000 square feet total gross floor area.

B. Special Use Permit Required for Large Buildings

Any project in excess of 200,000 square feet of gross floor area in the OI, C-2, or C-3 district shall require special use approval.

3.4.4 Building design standards *(TA 11-01)*

A. Windows Required

(1) For all redevelopment a minimum of 15% of the ground floor façade of the primary street frontage shall be comprised of windows of clear glass, display cases or translucent glass. This requirement does not apply to the walls of residential units or parking structures.

(2) For all new construction a minimum of 25% of ground floor façade of the primary street frontage shall be comprised of windows of clear glass, display cases or translucent glass. This requirement does not apply to the walls of residential units or parking structures.

B. Architectural Style

Forms and finish materials of buildings, signage, gasoline pump canopies and other accessory structures shall be compatible with the architectural character of the adjacent area through compliance with the following standards:

(1) Any side or rear of a building that is visible from the public right-of-way or parking areas shall be as visually attractive as the front through the design of rooflines, architectural detailing and landscaping features.

(2) Service, loading, and trash collection areas shall be screened by a combination of decorative walls of masonry, wood, and plantings

(3) Loading areas shall be screened from view from all residentially zoned property.

C. Roofs

(1) Parapets or other architectural elements shall be used to conceal flat roofs and rooftop equipment such as HVAC units from public view.

(2) Wireless communication equipment should be blended into the design of the roof.

D. Materials and colors

(1) Predominant exterior building materials shall consist of, but not limited to, brick, sandstone, stucco, and other native stone and tinted/textured concrete masonry units. Synthetic materials offering similar appearances may also be utilized. Smooth faced concrete block and corrugated metal panels are prohibited.

(2) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors is prohibited.

(3) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

E. Customer Entrance

Retail establishments on a site shall have a clearly defined, highly visible customer entrance.

F. Other Improvements

Vending machines, ATMs and similar features shall be integrated into the architecture of the building and shall not encroach on pedestrian walkways.

3.4.5 Building Standards for Large Buildings *(TA 11-01)*

The following additional standards apply to all single and multiple tenant buildings containing more than 25,000 square feet of gross floor area.

A. Facades and Exterior Walls

(1) Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3 percent of the length of the facade and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 100 feet (horizontal).

B. Entryways

(1) Each large retail establishment on a site shall have clearly defined, highly visible customer entrance and featuring no less than 3 of the following:

(a) canopies or porticos;

(b) overhangs;

(c) recesses/projections;

(d) arcades;

(e) raised corniced parapets over the door;

(f) peaked roof forms;

(g) arches;

(h) outdoor patios;

(i) display windows; or

(j) architectural details such as tile work and moldings which are integrated into the building structure and design;

(2) All building facades that are visible from adjoining properties and/or public streets shall comply with the requirements noted above.

3.4.6 Outdoor Lighting

Outdoor lighting must comply with Sec. 9.8

3.4.7 Parking and Loading Areas *(TA 11-01)*

A. Parking garages must present a horizontal rather than sloped building line on all visible edges. The exterior finish of parking structures shall be compatible with adjacent buildings and give the appearance of buildings, not parking garages.

B. Loading and service areas shall be screened from view from adjacent properties and streets.

C. Pedestrian Access

(1) Purpose

Pedestrian access is required to ensure pedestrian connection between the buildings on the site and the public right-of-way and between adjacent sites. Pedestrian access shall be designed to the standards in this section.

(2) Connections

(a) Street Connections

The pedestrian system must connect all adjacent streets and sidewalks to the main entrance.

(b) Internal Connections

The system must connect all buildings on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common open space areas, and all pedestrian amenities.

(c) Adjacent Connections

The system should connect to adjacent sites and, if available, adjacent pedestrian networks.

(d) Materials

The circulation system must be hard surfaced, and be constructed in accordance with the Manual of Practice.

(e) Where the system crosses driveways, parking areas, and loading areas, the system must be clearly identifiable through the use of elevation changes, pedestrian tables, a different paving material, or other similar method.

(f) Where the system is parallel and adjacent to a vehicle travel lane, the system must be a raised path or be separated from the vehicle travel lane by a raised curb, bollards, landscaping or other physical barrier.

3.4.8 Connectivity

Non-residential sites shall be designed to provide connectivity to adjoining parcels and rights of way. This requirement may be waived if deemed impractical or undesirable by the Planning Director.

3.4.9 Public Transit

Commercial sites shall be designed to accommodate public transit vehicles when such service is determined appropriate by the City.

3.4.10 Alternative Standards

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4.

3.5.1 Building and Design Standards *(TA 11-01)*

A. Architectural Style

Forms and finish materials of buildings, signage, gasoline pump canopies and other accessory structures shall be compatible with the architectural character of the adjacent area through compliance with the following standards:

(1) Any side or rear of a building that is visible from the public right-of-way shall be as visually attractive as the front through the design of rooflines, architectural detailing and landscaping features.

(2) Transition lines are required at the top of the first story of all buildings.

(3) Service, loading, and trash collection areas shall be screened by a combination of decorative walls of masonry, wood, and plantings

(4) Loading areas shall be screened from all residential districts.

B. Roofs

(1) Parapets or other architectural elements shall be used to conceal flat roofs and rooftop equipment such as HVAC units from public view.

(2) Wireless communication equipment shall be blended into the design of the roof.

C. Materials and colors

(1) Predominant exterior building materials shall consist of, but not limited to, brick, sandstone, stucco, and other native stone and tinted/textured concrete masonry units. Synthetic materials offering similar appearances may also be utilized. Smooth-faced concrete block and corrugated metal panels are not permitted. Balconies and porches may be metal, brick, stone, concrete, or stucco.

(2) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors is prohibited.

(3) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

D. Customer Entrance

Retail establishments on a site shall have a clearly defined, highly visible customer entrance.

E. Other Improvements

Vending machines, ATMs and similar features shall be integrated into the architecture of the building and shall not encroach on pedestrian walkways.

3.5.2 Ground Level Details

The intent of this section is to ensure buildings display visual interest and reinforce the pedestrian character of the street.

A. Guidelines

(1) Facades of commercial and mixed-use buildings within Neighborhood and Community Centers shall be designed to be pedestrian friendly through the inclusion of at least three of the following elements:

(a) Kickplates for storefront windows

(b) Projecting sills

(c) Pedestrian scaled signs

(d) Canopies

(e) Plinths

(f) Containers for seasonal plantings

3.5.3 Sidewalk Encroachments

The intent of this section is to ensure there is a minimum unobstructed walking route along sidewalks.

A. Guidelines

Temporary sidewalk encroachments are allowed with City Council approval. Café seating, planters, ramps, and stairs, which are located in the sidewalk shall be located to provide a pathway that is compliant with the standards of the American with Disabilities Act (ADA) or a minimum of four (4) feet wide; whichever is greater.

3.5.4 Curb Cut Limitations

The intent of this section is to provide safe convenient vehicular access without compromising pedestrian safety.

A. Guidelines

(1) Curb cuts for non-residential uses shall not exceed 30 feet in width for combined entry/exits.

Figure 3-5: Sidewalk Setback from Driveway with Continuous Sidewalk Pattern

(2) Sidewalk patterns shall carry across driveway.

(3) Adjacent development should share driveways to the greatest extent possible.

(4) Vehicular access shall be located to avoid directing traffic through abutting residential zone.

3.5.5 Screening and Noise Control of Service Areas

The intent of this section is to reduce the impact of service, loading and trash storage areas.

A. Guidelines

(1) All service, loading, and trash collection areas that are visible from public rights-of-way, pedestrian pathways, or residential zones shall be screened by a combination of decorative walls of masonry, wood, and plantings.

(2) Loading and service areas shall be fully screened from view from residentially zoned property.

3.5.6 Treatment of Blank Walls

The intent of this section is to ensure buildings do not display blank walls to adjacent street or residential areas.

A. Guidelines

Walls or portions of walls where windows are not provided shall have architectural treatment wherever that face is visible from a street or residential areas. At least four of the following shall be used in these walls:

(1) Concrete or masonry plinth at the base of the wall,

(2) Transition lines of different texture or color,

(3) Projecting cornices,

(4) Decorative tile work,

(5) Projecting canopy,

(6) Trellis containing plantings,

(7) Opaque or translucent glass,

(8) Opaque or translucent glass,

(9) Artwork,

(10) Vertical articulation,

(11) Lighting fixtures, or

(12) Other architectural element as approved that meets intent above.

Figure 3-6: Treatment of Blank Walls

3.5.7 Prominent Entrances

The intent of this section is to ensure building entrances are easily identifiable and clearly visible from streets and sidewalks

A. Guidelines

(1) The principal entry to a building should be marked by ornamentation around the door and at least one of the following:

(a) Recessed entrance of at least 3 feet,

(b) Protruding entrance of at least 3 feet,

(c) Canopy extending at least 5 feet,

(d) Portico extending at least 5 feet, or

(e) Overhang extending at least 5 feet.

3.5.8 Façade Transparency

The intent of this section is to provide visual connection between the activities inside and outside the building.

A. Guidelines

(1) A minimum of 30% of any ground floor façade that is visible from and fronting on abutting streets shall be comprised of windows with glass allowing views into the interior.

(2) Upper story elevations must be comprised of at least 15% glass. The height of parapets shall be excluded from the area used to calculate glass requirements for upper story elevations.

(3) Display windows or translucent glass may be used to meet half these requirements.

3.5.9 Building Standards for Large Buildings

The following additional standards apply to all single and multiple tenant buildings containing more than 25,000 square feet of gross floor area.

A. Facades and Exterior Walls

(1) Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3 percent of the length of the facade and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 100 feet (horizontal).

(2) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than 30% of their horizontal length (see Figure 3-x).

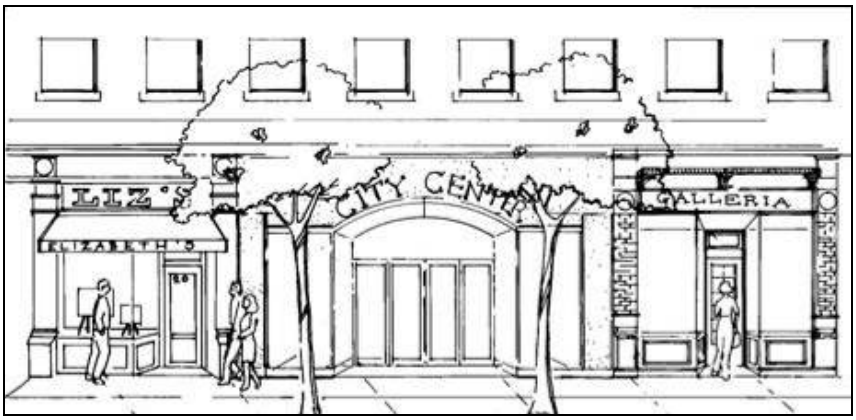


Figure 3-7: Ground Floor Façade

B. Entryways

(1) Each large retail establishment on a site shall have clearly defined, highly visible customer entrance and featuring no less than 3 of the following:

(a) canopies or porticos;

(b) overhangs;

(c) recesses/projections;

(d) arcades;

(e) raised corniced parapets over the door;

(f) peaked roof forms;

(g) arches;

(h) outdoor patios;

(i) display windows; or

(j) architectural details such as tile work and moldings which are integrated into the building structure and design;

(2) All building facades that are visible from adjoining properties and/or public streets shall comply with the requirements noted above.

3.5.10 Parking and Loading Areas

Off-street parking and loading spaces are not required for development in the C-1 district. However, when parking or loading spaces are provided, they shall be subject to all parking/loading area design, construction and landscaping standards of the Land Development Code and the following requirements.

A. All off-street parking, loading and service areas must be located behind the frontage line(s) of all buildings and screened from view of pedestrians.

B. On lots without principal buildings or when parking spaces are not completely screened from street level view by buildings, all surface-level parking, loading and service areas must be screened by an opaque wall that is aligned with the facade of an adjacent building. The required screening mechanism must be between 3.0 feet and 5.0 feet in height and constructed of a living hedge or a screen constructed of brick, stone or other masonry material that matches adjacent buildings.

C. No driveway providing access to parking or loading areas may exceed 24 feet in width.

D. Parking garages must present a horizontal rather than sloped building line on all visible edges. The exterior finish of parking structures shall be compatible with adjacent buildings and give the appearance of buildings rather than parking garages.

3.5.11 Connectivity

Non-residential sites shall be designed to provide connectivity to adjoining parcels and rights of way. This requirement may be waived if deemed impractical or undesirable by the Planning Director.

3.5.12 Outdoor Lighting

Outdoor lighting must comply with Sec. 9.8

3.5.13 Pedestrian Entrance

The principal pedestrian entrance to all buildings must come from a frontage line. Secondary pedestrian entrances may come from parking areas or other non-frontage line locations.

3.5.14 Alternative Standards

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4

3.6.1 Building Design Standards

The following standards shall apply to all buildings in the IND Zoning District that are visible from or fronting on a major or minor thoroughfare:

A. Roofs

Parapets or other architectural elements shall be used to conceal flat roofs and rooftop equipment such as HVAC units from major and minor thoroughfares.

B. Materials and colors *(TA 11-01)*

(1) Predominant exterior building materials on the ground floor façade of the primary street frontage shall consist of, but not limited to, brick, sandstone, stucco, and other native stone and tinted/textured concrete masonry units. Synthetic materials offering similar appearances may also be utilized.

(2) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors shall be prohibited.

(3) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

3.6.2 Alternative Standards

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4.

Article 4 **Overlay and Special Purpose Districts**

Sec. 4.1 Overlay Zoning Districts

4.1.1 The following overlay zoning districts are hereby established:

Full Name	Short Name/Map Symbol
Revitalization District Overlay	RD-O
Neighborhood Preservation Overlay	NP-O
Historic Overlay	H-O
Watershed Protection Overlay	WP-O
Airport Overlay	A-O
Henry River Conservation Overlay	HRC-O
NC 127 Central Corridor Overlay	NC 127-O
High Rise Sign Overlay	HRS-O

4.1.2 Purpose

Overlay zoning districts are applied in combination with existing base zoning districts and have the effect of modifying the requirements, regulations and procedures applying in the applicable base-zoning district to the extent expressly indicated in this article.

Sec. 4.2 Revitalization District Overlay

4.2.1 Description

The Revitalization District Overlay (RDO) implements the "Revitalization" policies of the Hickory by Choice 2030 Comprehensive Plan. The RDO is intended to provide flexibility in certain development standards, for redevelopment of existing buildings, while ensuring compatibility with the long range vision and policy of the comprehensive plan. Revitalization areas typically have a diverse mix of uses, typically adjacent to each other rather than integrated on a single parcel. Revitalization areas generally include, but are not limited to, the U.S. 321 corridor, Springs Road near Shuford Mills, Highland Avenue, and Highway 70 West between South Center Street and the Longview city limits. The RDO is established to achieve the following purposes:

A. Foster economic vitality and attractive community character in areas needing revitalization

B. Provide a combination of commercial, office, and residential uses

4.2.2 Establishment

The RDO may be applied in combination with any underlying base zoning district The RDO district is generally applied to those areas identified by Hickory by Choice 2030 as Revitalization areas.

4.2.3 Effect of RDO

The Revitalization District Overlay is intended to allow flexibility in the redevelopment of land. When no special RDO district standards are specified, all other applicable regulations of this Land Development Code will govern.

4.2.4 Building and Design Standards

All redevelopment must comply with the standards and requirements of the underlying zone, except as modified by this overlay zone.

A. The industrial size limitations of Sec. 6.1 shall not apply to the redevelopment of existing buildings where the most recently approved use would have been classified as Manufacturing and Production, Warehouse and Freight Movement, or Industrial Service under this Land Development Code.

B. The window requirements of Sec 3.4.4A shall not apply to the redevelopment of existing buildings, provided that all existing window openings are maintained.

4.2.5 Off Street Parking

The number of off-street parking spaces required by Sec. 9.2.2 shall be reduced by 30 percent.

4.2.6 Landscaping and Screening

A. All properties in the RDO district shall be subject to the provisions of Sec. Sec. 9.14 except as modified below:

(1) The perimeter landscape buffer requirements of Sec. 9.14.2 shall not apply to the redevelopment of existing buildings where the building footprint does not change and there is not an increase in use intensity.

(2) All new construction and redevelopment projects where there is an increase in building footprint shall be subject to the landscape buffer requirements of Sec. 9.14.2

(3) The landscape requirements of Sec. 9.14 shall not apply to existing paved parking, loading, and service areas in the RDO district.

(4) Existing gravel parking, loading, and service areas shall be paved upon redevelopment or a change in use. The paved surface shall meet the design standards of Sec. 9.1. When existing gravel parking areas are paved, the landscape requirements of Sec. 9.14 shall not apply provided that the overall size of the parking, loading, or service area is not increased by more than 15 percent.

4.2.7 Alternative approval by Planning Commission

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4

Sec. 4.3 Neighborhood Preservation Overlay District *(TA 15-01)*

4.3.1 Applicability

The Neighborhood Preservation Overlay (NP-O) district regulations of this section shall apply to new development and changes of use or occupancy and increasing the number of dwelling units in a structure in the Kenworth, Green Park, Highland, Claremont, and Westmont / West Hickory neighborhoods, which is shown of the City's Official Zoning Map.

4.3.2 Conflicting Provisions

Where conflicts arise between the regulations of the underlying base zoning district, and other overlay districts; the more restrictive provisions shall govern.

4.3.3 Nonconformities

No structure or lot existing at the time when these regulations are adopted shall be deemed nonconforming because of these overlay regulations. An existing structure may be rebuilt if damaged or destroyed even if the structure fails to conform to these regulations.

4.3.4 Lot Size and Density

A minimum of 5,000 square feet of land shall be required for each dwelling unit constructed.

4.3.5 Setbacks

No new residential or non-residential structure shall be set back farther from the street than 35 feet or the average of the 2 nearest principal structures along the street which the new building faces, whichever is less. Existing structures may be expanded in accordance with underlying base zoning district standards.

4.3.6 Building Orientation *(TA 15-01)*

The main building entrance of any dwelling shall face the street from which the building is addressed.

4.3.7 Parking Location

Except for the driveway of a single-family dwelling, no new off-street parking shall be permitted in the front yard on any residential or non-residential property.

4.3.8 Sidewalks

All new buildings and uses, other than single-family dwellings, shall construct a public sidewalk in the right of way or in an easement across the frontage of the property.

4.3.9 Porches – Setback Encroachment

Front porches and stoops shall be allowed to encroach into the required front yard up to 10 feet.

Sec. 4.4 Historic Overlay District (H-O)

4.4.1 Description; Purposes

The H-O, Historic Overlay district is intended to preserve and protect Hickory's locally designated historic districts and historic landmarks, which are among the city's most valued and important assets. H-O districts are established for the following purposes:

A. Protecting and conserving the heritage of the City of Hickory and the State of North Carolina;

B. Safeguarding the character and heritage of the historic districts and historic landmarks by preserving the historic districts as a whole and any individual property therein or historic landmark that embodies important elements of its social, economic, cultural, political or architectural history;

C. Promoting the conservation of such historic districts and historic landmarks for the education, pleasure and enrichment of residents of the historic districts, historic landmarks, the City of Hickory and the state as a whole;

D. fostering civic beauty; and

E. stabilizing and enhancing property values within historic districts and historic landmarks, thus contributing to the improvement of the general health and welfare of the City of Hickory and the residents of the historic districts and historic landmarks.

4.4.2 Applicability

The H-O district regulations shall be applicable to all locally designated historic landmarks and districts within the territorial jurisdiction of the City of Hickory.

4.4.3 Historic District Establishment

A. The historic districts are hereby established as districts in which overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the City of Hickory. The H-O district may be applied in combination with any underlying base zoning district.

B. Historic districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its history, prehistory, architecture, and/or culture and to possess integrity of design, setting, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district shall be prepared by the Historic Preservation Commission and a recommendation thereon made to the City Council, and;

(2) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. The districts shall not be established and the authority and the powers established by this section shall not be implemented until the Department of Cultural Resources has been given an opportunity, in accordance with the provisions of G.S. 160A-400.4(2), to make recommendations with respect to the establishment of the districts. Failure of the department to submit its written analysis and recommendations to the appropriate governing body within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the City of any responsibility for awaiting such analysis. At any time thereafter, the City Council and City staff may take any necessary action to adopt or amend its Land Development Code.

(3) Once the above described steps have taken place, the city may take action in accordance with the zoning map amendment procedures of Sec. 2.2 to establish an H-O district.

4.4.4 Historic Landmark Establishment

A. The City Council may adopt, and from time-to-time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistoric, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

B. The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistoric value, including the land area of the property so designated, and any other information the governing body deems necessary.

For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the delay set forth in section 2.5.10 be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent. If the property owner does not consent, the city may place a marker in the public right-of-way adjacent to the historic landmark.

C. No property shall be designated as a landmark until the following steps have been taken:

(1) As a guide for the identification and evaluation of landmarks, the Historic Preservation Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical architectural, prehistoric, and cultural significance within the zoning jurisdiction of the City of Hickory.

(2) The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

(3) The Department of Cultural Resources shall be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments shall be provided in writing. If the department does not submit its comments to the Historic Preservation Commission within 30 days following receipt by the department of the report, the Historic Preservation Commission and the City Council shall be relieved of any responsibility to consider such comments.

(4) The Historic Preservation Commission and the City Council shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

(5) Following the public hearings(s), the Historic Preservation Commission may recommend and the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(6) Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and amendments thereto shall be filed by the Historic Preservation Commission in the office of the Register of Deeds. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the office of the Register of Deeds of the county in which the landmark is located. Each landmark ordinance and all amendments thereto shall be indexed according to the name of the owner of the property in the grantor and grantee indexes of the office of Register of Deeds, and the Historic Preservation Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the clerk of the City of Hickory and shall be made available for public inspection at any reasonable time.

(7) Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Historic Preservation Commission to give notice thereof to the tax supervisor of the county in which the landmark is located.

4.4.5 Effect of H-O District

The H-O district regulations apply in combination with underlying base zoning district regulations and all other applicable standards of this Land Development Code. When H-O district standards conflict with the underlying base zoning district standards or other regulations of this Land Development Code, the regulations of the H-O district will always govern. When no special H-O district standards are specified, all other applicable regulations of this Land Development Code will govern.

4.4.6 Allowed Uses

All uses permitted in the underlying zoning district, whether by right or as a Special Use, shall be permitted in the H-O district in accordance with the procedures established for such uses.

4.4.7 Intensity, Dimensional and Design Standards

Structures within H-O districts shall comply with the Intensity, Dimensional and Design Standards of Article 7, except as provided in Sec. 4.4.8 and Sec. 4.4.9.

4.4.8 Authentic Restoration or Reconstruction

A. Approval by Historic Preservation Commission and Board of Adjustment

Where it is found by the Historic Preservation Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of a structure of historic and/or architectural significance to the H-O district, such activity may be approved by the Board of Adjustment, following approval by the Historic Preservation Commission, even though it does not comply with applicable dimensional standards.

B. Approval Subject to Conditions

The Board of Adjustment, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

C. Encroachment over Public Right-of-Way

In addition to any other condition the Board of Adjustment may make regarding such authorization, any items restored, reconstructed or maintained on, over or within a public sidewalk, public alley area, or other public way, shall be the responsibility of the owner, and the owners heirs and assigns. The owner's restoration, reconstruction or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the City of Hickory blameless against any and all liability, cost, damage or expense suffered by the City of Hickory as a result of or growing out of the restoration, reconstruction or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed or maintained. Any such item projecting over the vehicular travel way of a street or alley shall be, at its lowest point, 12 feet above the travel way.

D. Limitation on Approval

The Board of Adjustment shall not be authorized, in action undertaken by this section, to approve a use of property that is not a use permitted by-right or as a Special Use within the underlying zoning district.

4.4.9 Parking Waiver

A. Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall make a written finding that the number of off-street parking spaces required by this Land Development Code for the building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the H-O district, it shall recommend to the Board of Adjustment a waiver, in part or in whole, of the off-street parking requirements.

B. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided that the Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking, and will not constitute a threat to the public safety.

4.4.10 Historic Preservation Commission Recommendation on Special Use Applications

All special use applications within the historic districts and historic landmarks shall be reviewed by the Historic Preservation Commission at its next regular meeting after the application has been submitted in accord with the requirements of this Land Development Code. The Historic Preservation Commission shall forward its comments and recommendations to the Hickory Regional Planning Commission within 30 days of the filing of the application. The recommendations shall be presented to all review and decision-making bodies on the Special Use.

4.4.11 Certificate of Appropriateness

A. Procedures

Certificates of Appropriateness shall be reviewed and approved in accordance with the procedures of Sec. 2.5.

Sec. 4.5 Watershed Protection Overlay District (WP-O)

4.5.1 General Provisions

A. Intent

The WP-O, Watershed Protection Overlay district provisions of this section are intended to carry out the requirements of Article 21 of Chapter 143 of the General Statutes of North Carolina and to limit the exposure of public supply watersheds to pollution from surface water runoff. The sources of such pollution include stormwater runoff from built upon areas, leachate from sanitary landfills, accidental spills of hazardous materials, wastewater discharges, soil erosion, land application of sludge or petroleum contaminated soils and other point and non point sources of pollution. Generally, land within the Lake Hickory Water Supply Watershed is classified as WS-IV, and land within the Jacob's Fork Water Supply Watershed is classified as WS-III.

B. Effect of WP-O District Designation

The WP-O district is applied in combination with ("overlaying") existing base zoning districts and has the effect of modifying the requirements, regulations and procedures applying in the applicable base-zoning district to the extent expressly

indicated in this section. When no special WP-O district standards are specified, all other applicable regulations of this Land Development Code will govern.

4.5.2 Applicability; Exemptions

A. New development within watershed areas on parcels or project sites equal to or greater than one (1) acre shall comply with the requirements of this section. Development on parcels or project sites less than one (1) acre are not exempt if they are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place on different schedules. All new development shall comply with the buffer requirements of Sec. 4.5.10.

B. Existing development is not subject to the requirements of this section.

C. Single lots of record as of June 30, 1993, if zoned for residential use, may be developed for single family residential purposes in accordance with the other requirements of the Hickory Land Development Code without being subject to the restrictions of this section. Such lots of record shall not be required to be combined to achieve the density standards of this section.

D. Expansions to non single family structures classified as existing development must meet the requirements of this section; however, the built upon area of the existing development is not required to be included in the density calculations. Expansions to structures other than existing development must meet the requirements of this section for the entire site.

E. Redevelopment of built upon areas of existing development is allowed if the rebuilding activity does not have a net increase in built upon area or provides equal or greater stormwater control than the previous development.

F. Single family dwellings may be expanded, redeveloped or replaced in accordance with the other requirements of the Hickory Land Development Code without being subject to the restrictions of this section.

4.5.3 WP-O District Boundaries

The boundaries of the WP-O district are shown on the official zoning map. The WP-O district is divided into critical area and protected area sub districts shown on the official zoning atlas.

4.5.4 Definitions

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions of this subsection shall be used solely for the purpose of interpreting and administering the Watershed Overlay district provisions of this section.

Term	Definition
Animal Unit	A unit of measurement developed by the US Environmental Protection Agency that is used to compare different types of animal operations.
Best Management Practices (BMP)	A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.
BMP Design Manual	The latest edition of the BMP Design Manual published by the North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR, DWQ).

Term	Definition
Buffer	An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
Impervious Coverage *(TA 14-01)*	That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas, recreation facilities (e.g., tennis courts, etc.) (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Measurements of impervious coverage shall be based upon net project area excluding land within existing street rights-of-way or within the flooding easements of Lake Hickory.
Critical Area	The watershed area adjacent to Lake Hickory west of the NC 127 bridge extending either one-half mile from the normal pool elevation of the lake or to the ridgeline of the watershed (whichever comes first) where the risk associated with pollution of the water supply is greatest. This term also applies to any portion of the Hickory Regional Planning Area located in the Jacob's Fork Water Supply Watershed for the application of watershed protection overlay district regulations.
Developed Parcel	Any parcel of a parcel pair that, under any approval granted under this part, may be developed to a development density or intensity that exceeds the maximum development density or intensity that would apply to the parcel if the paired-parcel averaged-density development option were not available.
Exemption	An exemption is the complete waiver of a management requirement or the relaxation of any management requirement that applies to a development proposal intended to qualify under the high-density option.
Existing Development	Existing development, for the purposes of these rules, shall be defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date this Water Supply Ordinance (July 1, 1993) or such earlier time that the City of Hickory's management plans and ordinance shall specify, based on at least one of the following criteria: (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid approval from the City of Hickory to proceed with the project; or upon having an approved preliminary plat or planned development or group housing development plan; or (2) Having an outstanding valid building permit as authorized by the North Carolina General Statutes (GS 160A-385.1); or (3) Having an outstanding zoning compliance permit as authorized by the North Carolina General Statutes (GS 160A-385.1(f)(3)) and/or meeting the requirements for establishing a zoning vested right.
Hazardous Material	Any substance listed as such in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) at 42 U.S.C. Chapter 103 (CERCLA); the 1986 amendments to CERCLA known as the Superfund Amendments and Reauthorization Act (SARA, Section 302 (dealing with extremely hazardous substances); or 33 U.S.C. § 1321 (Section 311 of the Clean Water Act dealing with oil and hazardous substances.
Landfill	A facility used for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the NC General Statutes. For the purpose of this section, the term does not include composting facilities.
Nonresidential Development	All development other than residential development, agriculture or silviculture.
Paired-parcel Averaged-density Development *(TA 14-01)*	A development proposal that includes a parcel pair meeting the development standards of this Section and that qualifies for local development approval under the density-averaging provision of NCGS §143-214.5.

Term	Definition
Parcel Pair	Two noncontiguous parcels of land under the same or separate ownership, or two contiguous parcels of land under separate ownership, the development plans for which have been submitted in tandem so as to qualify for density averaged development permission under this Section.
Perennial Stream	Streams that have flow year-round and are shown on the US Geological Survey's quadrangle as a solid blue line or as identified by the jurisdictional assessment required in this section.
Protected Area	The area adjoining and upstream of the critical area of the Water Supply Watershed in which protection measures are required. The boundaries of the protected area are defined as extending five miles upstream and draining to the portions of Lake Hickory west of the NC 127 bridge or to the ridgeline of the watershed, whichever comes first. This term also applies to any portion of the Hickory Regional Planning Area located in the Jacobs Fork Water Supply Watershed for the application of watershed protection overlay district regulations.
Undeveloped Parcel	The parcel in a parcel pair that is not developed.
Water Dependent Structure	Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boathouses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.
Watershed	The entire land area contributing surface drainage to a specific point (e.g., the water supply).

4.5.5 Prohibited Uses in the Critical Area

Within the critical area, sanitary landfills and new sites for land application of sludge/residuals or petroleum contaminated soils are prohibited.

4.5.6 Restrictions on Uses within the Protected and Critical Areas

A. Within the critical area, agriculture is subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.

B. Agricultural activities must maintain a minimum 10 foot wide vegetated buffer or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters as shown on the official zoning atlas.

C. Animal operations greater than 100 animal units shall employ best management practices by July 1, 1994. The Soil and Water Conservation Commission is responsible for implementing these provisions pertaining to agricultural activities.

D. Silviculture activities shall be subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 1 I .0101 .0209). The North Carolina Division of Forest Resources is responsible for implementing these provisions pertaining to silviculture activities.

E. New nonresidential development within watershed areas shall incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.

F. The construction of new roads and bridges and nonresidential development shall minimize built upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMP's) to minimize water quality impacts.

G. Road construction shall use BMP's outlined in the North Carolina Department of Transportation document entitled, "Best Management Practices for the Protection of Surface Waters."

4.5.7 Density Requirements

Within the protected and critical areas, the following density and impervious coverage limits shall apply to new development that is not otherwise exempted by Section 4.5.2 above:

A. Low Density Option (WS-III)

(1) New development under the low-density option is not required to provide BMPs meeting the design standards of the NCDENR, DWQ as the primary treatment system for stormwater runoff.

(2) Within the critical area, residential uses are allowed at a maximum density of 1 dwelling unit per acre; other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 12 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

(3) Within the protected area, single-family detached residential projects are allowed at a maximum density of 2 dwelling units per acre; all other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 24 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

B. Low-Density Option (WS-IV)

(1) New development under the low-density option is not required to provide BMPs meeting the design standards of the NCDENR, DWQ as the primary treatment system for stormwater runoff.

(2) Within the critical area, residential uses are allowed at a maximum density of 2 dwelling units per acre; other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 24 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

(3) Within the protected area, residential projects utilizing curbs and gutters are allowed at a maximum density of 2 dwelling units per acre; other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 24 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

C. High Density Option (WS-III)

(1) New development under the high-density option must employ BMPs, or alternative stormwater management systems consisting of other treatment options, or a combination of treatment options approved by the NCDENR, DWQ.

(2) BMPs engineered to control and treat the first one inch of rainfall, designed by a North Carolina registered professional engineer and meeting the design standards of the NCDENR, DWQ, must be employed under the high-density option as the primary treatment system for stormwater runoff.

(3) Under the high-density option, maximum impervious coverage shall not exceed 30 percent in the critical area or 50 percent in the protected area on a project-by-

project basis. The exposed surface area in plan view of a BMP may be considered pervious when computing impervious area.

D. High Density Option (WS-IV)

(1) New development under the high-density option must employ BMPs, or alternative stormwater management systems consisting of other treatment options, or a combination of treatment options approved by the NCDENR, DWQ.

(2) BMPs engineered to control and treat the first one inch of rainfall, designed by a North Carolina registered professional engineer and meeting the design standards of the NCDENR, DWQ, must be employed under the high-density option as the primary treatment system for stormwater runoff.

(3) Under the high-density option, maximum impervious coverage shall not exceed 50 percent in the critical area or 70 percent in the protected area on a project-by-project basis. The exposed surface area in plan view of a BMP may be considered pervious when computing impervious area.

4.5.8 Cluster Development

Clustering of development is permitted on a project-by-project basis in protected and critical areas, subject to Sec. 8.8 and Article 5 and the following conditions:

A. Minimum lot sizes are not applicable to single family dwelling cluster development projects; however, under the low-density option, the number of single family dwelling lots shall not exceed the number of lots allowed under the low-density option (See Sec. 4.5.7).

B. All impervious coverage areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and to minimize concentrated stormwater flow.

C. The remainder of the tract shall remain in a vegetated or natural state. Agreements satisfactory to the City Attorney for assuring that the remainder of the tract is held, improved and maintained as open space shall be required.

4.5.9 Planned Developments

Planned developments shall be treated as a single property where development-wide stormwater and erosion control measures are utilized. Project densities and impervious coverage may be calculated on a development-wide basis for such projects.

4.5.10 Buffer Areas Required

A minimum 100-foot vegetative buffer is required for all new high-density development activities and a minimum 30-foot vegetative buffer is required for all new low-density development activities along all indicated perennial waters within the WP-O district. No new development is permitted within the buffer except for artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as road crossings or greenways where no practical alternatives exist. Activities within buffer areas shall minimize impervious coverage area, direct runoff away from surface waters and maximize the utilization of stormwater best management practices.

4.5.11 Application Submittal Requirements

In addition to the information otherwise required to be submitted with Zoning Compliance Permits, the following information shall be required to be submitted with Zoning Compliance Permit applications for all projects within the WP-O district:

A. The square footage and percent of impervious coverage area.

B. For residential projects, total dwelling units and dwelling units per acre.

C. The accurate location of all perennial streams and natural drainage areas on the property.

D. The location and landscaping proposed for all required buffer areas.

E. For high density projects, copies of the development plan including a location map, adjoining property owners, lot dimensions, and rights of way; the accurate location of all existing and proposed buildings and other structures, and the location and size in square feet of all impervious coverage areas. In cases where the developer intends to sell development rights to a third party or subdivide the property, the plan must specify the maximum allowed impervious coverage area for each parcel or tract.

F. For high density projects, the location of any stormwater BMPs and copies of the plans and specifications for any stormwater BMPs designed and sealed by a North Carolina registered professional engineer with qualifications appropriate for the type of system required.

G. Copies of the plans and specifications for proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm drains, culverts, stormwater BMPs or areas where water is to be diverted through grading, designed either by a North Carolina Registered Engineer or Landscape Architect, to the extent that the North Carolina General Statutes, Chapter 89A, allow.

H. Written verification that a soil erosion and sedimentation control plan has been submitted to and approved by the appropriate state or local agency.

I. Permit application fees as set by the Hickory City Council.

J. For high density projects, a legal description of the area containing the stormwater BMPs and providing access to said BMPs shall be prepared as an easement to be filed with the Register of Deeds. The easement shall include the BMPs, vegetative filters, all pipes and water control structures, berms dikes, and area necessary to perform inspections, maintenance and repair.

K. For high-density option projects, the proposed security performance bond or other security to provide adequate financial assurance for the construction of the BMPs and associated stormwater control structures.

L. For high density option projects, the Proposed Operation and Maintenance Agreement between the City of Hickory and the owning entity to maintain, repair and if necessary, reconstruct the BMPs and its associated stormwater control structures in accordance with the operation and management plan and manual provided by the developer.

M. For high density option projects, an operation and maintenance plan and manual indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used to determine when those actions are to be taken and who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring the BMPs to design specifications if a failure occurs.

4.5.12 Density Averaging *(TA 14-01)*

Density averaging involves the use of two (2) noncontiguous parcels and is based on the premise the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of these regulations. The amount of development allowed for the paired

parcel taken together cannot exceed the amount of development that would be allowed if the parcels were developed separately.

A. A Special Use Permit shall be obtained from the Planning Commission sitting as the Watershed Review Board to ensure that both parcels considered together meet the standards of the ordinance and that potential buyers have notice of how the watershed regulations were applied to the parcel pair. Only owners of both of the paired parcels may submit the application for Special Use Permit. A site plan for both parcels must be submitted and approved as part of the Special Use Permit. If such a permit is granted, no change in the development proposal authorized for either parcel shall be made unless the permit is amended. Included with the Special Use Permit will be a site plan, registered plats for both properties, a description of both properties and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants and on individual deeds, and shall be irrevocable.

B. A Special Use Permit for Density Averaging shall be considered if the following exist:

(1) Parcels pairs being submitted for approval under this provision shall be submitted for development approval as a single unitary proposal.

(2) Sufficient information shall be submitted so that it may be determined that the density of the paired parcels, calculated either by dwelling units per acre or built upon area, shall not exceed the density that would be allowed if the parcels were developed separately. The paired parcels shall be located within the same water supply watershed and preferably in the same drainage area of the watershed. Parcels to be used in pairs may be located in the Protected or Critical Areas. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area the Critical Area parcel shall not be developed beyond the applicable density requirements for its classification.

(3) Vegetative buffers shall at a minimum meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel.

(4) Sufficient information shall be submitted so that it may be demonstrated that the parcels are designed to:

a. Minimize storm water runoff impact to the receiving waters by minimizing concentrated storm water flow;

b. Maximize the use of sheet flow through vegetated areas;

c. Minimize impervious surface areas;

d. Locate development away from surface waters and drainage ways to the maximum extent practicable; and

e. Convey storm water from developed areas by vegetated swales to the maximum extent practical.

(5) The undeveloped parcel(s) or portion(s) thereof shall remain in a vegetated or natural condition and shall be placed in a permanent conservation easement.

(6) Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed in perpetuity. Parties to enforcement of such agreement shall include the City of Hickory. No such agreement shall be accepted without approval of the Staff Attorney as to the legal sufficiency of the documents involved.

(7) Undeveloped land areas proposed for incorporation into the density or impervious coverage area calculation shall meet the following criteria:

a. Projects in the Protected Area may incorporate undeveloped land elsewhere in the Protected Area or Critical Area of the same water supply watershed. The amount of additional undeveloped acreage required shall be determined by dividing the appropriate density or impervious coverage area factor into the number of dwelling units or impervious coverage area in excess of the amount permitted on the project site by these regulations to determine the amount of other land to be reserved as undeveloped so that the overall density or intensity of the project shall not exceed the density or intensity that would be allowed if the parcels were developed separately .

b. Parcels located in critical areas may not be developed beyond the applicable density requirements of its classification.

c. Undeveloped land included to meet the requirements of one project shall not be included as meeting the requirements of any existing or proposed project nor shall any land included in a parcel pair for which a watershed variance has been granted or would be required.

d. Land areas within the flooding easement of Lake Hickory may not be used for the purposes of this section.

(8) The Planning Commission sitting as the Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this section.

(9) At the time of the issuance of the Zoning Compliance Permit, the Special Use Permit and conservation easement, shall be caused to be recorded by the Planning Director in the office of the appropriate Register of Deeds and filed with the offices of the Planning Director and City Clerk. Notations shall be made by the Planning Director on the official zoning atlas and the approved development plans and or plats for future guidance in administration and as a public record.

(10) The pattern of development and the agreement between the owners shall not be changed except by the issuance of a new or amended Special Use Permit in the manner herein established.

4.5.13 Financial Security

A. All new BMPs and stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of construction, maintenance, repairs or reconstruction necessary for adequate performance of the BMPs and stormwater control structures.

B. Financial assurance shall be in the form of the following:

(1) Construction Security Performance Bond or Other Security

The permit applicant shall choose and obtain either a construction performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the City of Hickory or placed in escrow with a financial institution designated as an official depository of the City of Hickory. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the City Engineer. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.

(2) Maintenance Security

A maintenance security bond, irrevocable letter of credit, or other instrument (as mentioned above) shall be obtained by the permit applicant/owner. The bond or other instrument shall be in an amount determined by the City Engineer. The maintenance security shall be required to ensure that the owner takes the necessary actions to inspect, maintain, repair, and if necessary reconstruct the BMPs and stormwater control structures. The maintenance security must be submitted to the City Engineer before a permanent certificate of occupancy can be issued.

(3) Operation and Maintenance Agreement

The permit applicant shall enter into a binding Operation and Maintenance Agreement between the City of Hickory and all interests in the development. The agreement shall require the owning entity to inspect, maintain, repair and, if necessary, reconstruct the BMPs and stormwater control structures in accordance with the Operation and Maintenance Agreement and Manual provided by the developer. The Operation and Maintenance Agreement and Manual shall be filed with the Register of Deeds by the Legal Department, at the owner's expense. The Operation and Maintenance Agreement and Manual must be submitted to and approved by the City before a permanent certificate of occupancy can be issued.

(4) Default Under Performance Bond Option

Upon default of the permit applicant to complete and/or maintain the BMPs and stormwater control structures as spelled out in the performance bond or other security, the City may obtain and use all or any portion of the funds necessary to complete and/or maintain the BMPs and stormwater control structures. The City shall return any funds not spent in completing the improvements to the owning entity.

(5) Default Under Cash Security Option

Upon default of the owning entity to construct, maintain, repair and, if necessary, reconstruct the BMPs and stormwater control structures in accordance with the plans and specifications or Operation and Maintenance Agreement and Manual, the City shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owing entity to comply with the plans and specifications and the terms and conditions of the Operation and Maintenance Agreement and Manual. The City shall return any funds not spent in completing the improvements to the owning entity.

4.5.14 Maintenance and Upkeep

A. An Operation and Maintenance Agreement and Manual shall be provided by the developer for each BMP and stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken, and consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a BMP and stormwater control structure to design specifications if a failure occurs.

B. Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the BMP and stormwater control structure is diminished or threatened, or to the extent of interfering with any easement or access to the BMP and stormwater control structure.

C. Except for general landscaping and grounds management, the owning entity shall notify the City Engineer prior to any repair or reconstruction of the BMP and stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the BMP and stormwater control structure and the Operation and Maintenance Agreement and Manual. After notification by the owning entity, the City Engineer may inspect the completed improvements and if necessary inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.

D. Amendments to the plans and specifications of the stormwater control structure and/or the Operation and Maintenance Agreement and Manual shall be approved by the City Engineer. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) and submitted to, and reviewed by the City Engineer.

E. If the City Engineer finds that the operation and maintenance plan and manual is inadequate for any reason, the City Engineer shall notify the owning entity of any required changes.

4.5.15 Application and Inspection Fees

A. Processing and inspection fees shall be submitted in the form of a check or money order made payable to the City of Hickory. Applications shall be returned if not accompanied by the required fee.

B. A permit and inspection fee schedule, as approved by the City of Hickory, shall be posted in the Office of the Planning Director.

C. Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the BMP and stormwater control structure except in the case when a similar fee has been paid within the last 60 days.

4.5.16 Inspections and Release of the Construction Performance Bond

A. The City Engineer shall inspect the BMP and stormwater control structure, after the owner notifies the City Engineer that all work has been completed. After this inspection is completed the owning entity shall provide:

(1) The necessary easements and final survey plat for the BMP and stormwater control structure ready for filing with the Register of Deeds;

(2) A certification and as-built drawings sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) stating that the BMP and stormwater control structure is complete and consistent with the approved plans and specifications.

(3) A maintenance security in an amount approved by the City Engineer.

B. The City Engineer shall review the materials submitted by the developer and the final inspection report.

(1) If the City Engineer approves the final inspection report and accepts the certification, as-built, and easements; the City shall file the easements with the Register of Deeds, at the owner's expense and release the performance bond or other security and issue a Certificate of Watershed Protection Compliance for the BMP and stormwater control structure.

(2) If deficiencies are found, the City Engineer shall direct that improvements and inspections be made and/or documents corrected and resubmitted before a permanent certificate of occupancy can be issued.

4.5.17 Annual Inspections

A. All BMPs and stormwater control structures shall be inspected on an annual basis by a qualified professional to determine whether the BMPs and stormwater control are performing as designed and intended. Records of inspection shall be recorded and submitted on forms supplied by the City Engineer. The annual inspection report shall be submitted to the City Engineer on/or before the first and each subsequent anniversary of the as-built certification.

B. The inspection report must indicate the status of each item inspected, and any maintenance that was conducted or repairs that were made as a result of the inspection.

4.5.18 BMP's and Stormwater Control Structures

A. All BMPs and Stormwater control structures shall be designed by either a North Carolina registered professional engineer or landscape architect to the extent that the General Statutes, Chapter 89A allow. Other stormwater drainage systems shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architects to the extent that the General Statutes, Chapter 89A allow and land surveyors, as provided in General Statutes 89(C) 3(7).

B. All BMPs and stormwater control structures shall be designed in accordance with the requirements of the North Carolina Department of Environment and Natural Resources (NCDENR) BMP Design Manual, latest edition.

C. All land areas outside of the BMPs and stormwater control structures shall be provided with a ground cover sufficient to restrain erosion after any land disturbance. Upon completion of the BMPs and stormwater control structures, a permanent ground cover shall be established and maintained as part of the maintenance agreement.

D. A description of the area containing the BMPs and stormwater control structures shall be prepared and filed as a separate easement with the Register of Deeds along with any easements necessary for general access to the BMPs and stormwater control structure. The easement area shall include the BMPs and stormwater control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.

Sec. 4.6 Airport Overlay District

4.6.1 Definitions

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Aerodrome	A landing field for airplanes and/or helicopters.
Established Airport Elevation	1,189 feet above mean sea level.
Approach Surface	A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
Conical Surface	A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
Hazard To Air Navigation	Any physical, visual or electrical obstruction or activity determined to have an adverse effect on the safe and efficient utilization of the navigable airspace in the vicinity of the Hickory Regional Airport.
Height	For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
Horizontal Surface	A horizontal plane 150 feet above the established airport elevation, the perimeter of which, in plan, coincides with the perimeter of the horizontal zone.
Larger Than Utility Runway	A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
Nonconforming Use	Any structure, object (including natural growth), activity or use of land that is inconsistent with the provisions of this Ordinance or an amendment thereto
Non-precision Instrument Runway	A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
Obstruction	Any structure, growth, or other object, including a temporary or mobile object, which exceeds a limiting height set forth in Sec 4.6.3 of this Ordinance.
Person	An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Primary Surface	A surface longitudinally centered on a runway. When the runway has a specially-prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
Runway	A defined area on an airport prepared for landing and takeoff of aircraft along its length.
Structure	An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
Transitional Surfaces	These surfaces extend outward at 90-degree angles to runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each one (1) foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet, measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline
Tree	Any natural growth, including tree and large shrub.
Visual Runway	A runway intended solely for the operation of aircraft using visual approach procedures

4.6.2 Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones that include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Hickory Regional Airport. Such zones are shown on the Hickory Regional Airport Height Zoning Map consisting of one sheet, from the airport Master Plan dated December 1990, which is attached to this Land Development Code and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined, as follows:

A. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. Runway Larger than Utility with a Visibility Minimum Greater Than ¾ Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

D. Horizontal Zone - The horizontal zone is established by swinging an arc of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

E. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward a horizontal distance of 4,000 feet.

4.6.3 Airport Zone Height Limitations

No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance, to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in questions, as follows:

A. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

B. Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

C. Transitional Zones - Slopes seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, [airport elevation 1,189 feet] which is 1,339 feet above mean sea level.

D. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 1,339 feet [airport elevation 1,189 feet] above mean sea level.

E. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, 1,539 feet above mean sea level.

F. Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.

4.6.4 Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

The construction, modification, or alteration of private or public owned aerodromes, including private or public helipads, within the City of Hickory extra-territorial jurisdiction must be coordinated and approved by Hickory Airport administration, and coordinated by the Federal Aviation Administration.

4.6.5 Nonconforming Uses

A. Regulations Not Retroactive - The regulations prescribed in this section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction or alteration of a use, which was

begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within one year thereof.

B. Permit Required – Before any structure or tree made nonconforming by the requirements of the Airport Overlay District may be replaced, substantially altered or repaired, the property owner must secure a permit from the Zoning Administrator authorizing such replacement change or repair. No such permit shall be granted that would allow the structure or tree in question to be made higher or become a greater hazard to air navigation that it was when the Airport Overlay District was adopted. Except as provided by this subsection and subsection 4.6.5(c), all applications for permits for replacement, change or repair of uses made nonconforming solely by the requirements of the Airport Overlay District shall be granted.

C. Trees and Structures 80 Percent Damaged – Whenever the Zoning Administrator determines that nonconforming structure or tree has been abandoned or more than 80 percent torn down, destroyed, deteriorated or decayed: (i) no permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of the Airport Overlay District and (ii) whether application is made for a permit or not, the City may by appropriate action compel the owner of the nonconforming structure or tree, at his own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations of the Airport Overlay District or, if the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days after notice thereof, the City may proceed to have the object so lowered, removed, reconstructed, or equipped.

D. Obstruction Marking And Lighting - Notwithstanding the subsection 4.6.5(A), the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Hickory Regional Airport.

4.6.6 Variances.

Variances may be permitted by the Board of Adjustment in accordance with Sec. 2.8.

4.6.7 Permits.

A. Future Uses - Except as specifically provided in subsections a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with Sec. 2.8.

B. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree of structure would extend above the height limits prescribed for such zones.

C. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

D. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

E. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section 4.6.3F).

4.6.8 Obstruction Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Hickory Regional Airport Commission, at its own expense, to install, operate, and maintain the necessary markings and lights.

4.6.9 Applications for Permit

It shall be the duty of the City Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Hickory Regional Planning Commission and/or the Hickory Regional Airport Commission upon a form published for that purpose.

Sec. 4.7 Henry River Conservation Overlay District

4.7.1 General Provisions

A. Intent

The HRC-O, Henry River Conservation Overlay district regulations contained herein are intended to limit the exposure of Henry River and its perennial and intermittent streams, to the cumulative and secondary impacts of development. These impacts include increased stormwater runoff from built upon areas, altered hydrographic conditions, nutrient loading and pesticide contamination from point and non point sources.

B. Effect of HRC-O District Designation

The HRC-O district is applied in combination with existing base zoning districts and has the effect of modifying the requirements, regulations and procedures applying in the applicable base-zoning district to the extent expressly indicated in this section. When no special HRC-O district standards are specified, all other applicable regulations of the Land Development Code will govern.

C. Applicability; Exemptions

(1) Redevelopment of built upon areas of existing development is allowed if the rebuilding activity does not have a net increase in built upon area or provides equal or greater stormwater control and treatment than the previous development.

(2) Single family dwellings may be expanded, redeveloped or replaced in accordance with the other requirements of the Hickory Land Development Code without being subject to the restrictions of this section.

(3) Existing development as defined herein.

4.7.2 HRC-O District Boundaries

It is the intent that the City of Hickory shall apply the HRC-O to all property within the area generally bounded by the city's municipal boundary line on the north, US 321 on the west, Sandy Ford Road on the south and Startown Road on the east. No property within this area shall receive both water and sewer service from the City of Hickory without first being annexed into the City and made subject to the regulations contained herein. As properties are annexed into the City of Hickory, the HRC-O shall be applied to these properties. The boundaries of the HRC-O district shall be shown on the official zoning atlas.

4.7.3 Definitions

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions of this subsection shall be used solely for the purpose of interpreting and administering the HRC-O district provisions contained in Sec. 4.7.

Term	Definition
Best Management Practices (BMP)	A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.
BMP Design Manual	The latest edition of the BMP Design Manual published by the North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR, DWQ).
Buffer Zone 1	Buffer Zone one (1) is an undisturbed 30 foot forested buffer. Buffer Zone 1 is designed to protect an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the top bank of each side of streams or rivers.
Buffer Zone 2	Buffer Zone two (2) is 20 foot managed zone immediately up slope from Zone 1. Buffer Zone 2 is designed to protect an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
Impervious Coverage	That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts, etc.) (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Measurements of impervious coverage shall be based upon net project area excluding land within existing street rights-of-way.

Term	Definition
Existing Development	Existing development, for the purposes of these rules, shall be defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the Henry River Conservation Overlay District (May 1, 2004) or such earlier time that the City of Hickory's management plans and ordinance shall specify, based on at least one of the following criteria: (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid approval from the City of Hickory to proceed with the project; or upon having an approved preliminary plat or planned development or group housing development plan; or (2) Having an outstanding valid building permit as authorized by the North Carolina General Statutes (GS 160A-385.1); or (3) Having an outstanding zoning compliance permit as authorized by the North Carolina General Statutes (GS 160A-385.1(f)(3)) and/or meeting the requirements for establishing a zoning vested right.
Low Impact Development	Low impact development (LID) shall be defined as – The integration of site ecology and environmental goals and requirements into all phases of urban planning and design from the individual residential, commercial and industrial lot level to the entire watershed. Approved LID stormwater management requirements and controls are found in the BMP Design Manual.
Stream, Intermittent	**S**treams that have regular flow only at certain times of the year and are shown on the United States Geological Survey's quadrangle as a dashed blue line or as identified by the jurisdictional assessment required in this section.
Stream, Perennial	Streams that have flow year-round and are shown on the US Geological Survey's quadrangle as a solid blue line or as identified by the jurisdictional assessment required in this section.
Water Dependent Structure	Any structure for which the use requires access to or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boathouses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.
Top of Bank	Top of bank shall mean the landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.
Watershed	The entire land area contributing surface drainage to a specific point (e.g., the water supply).

4.7.4 Restrictions on Uses Within and Adjacent to the Buffer Areas

A. Agriculture is subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.

B. Agricultural activities must maintain a minimum 10 foot wide vegetated buffer or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters.

C. Animal operations greater than 100 animal units shall employ best management practice. The Soil and Water Conservation Commission is responsible for implementing these provisions pertaining to agricultural activities.

D. Silviculture activities shall be subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 1 I .0101 .0209). The North Carolina Division of Forest Resources is responsible for implementing these provisions pertaining to silviculture activities.

E. New nonresidential uses requiring an erosion/sedimentation control plan under state law shall incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.

F. The construction of new roads and bridges and nonresidential development shall minimize built upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMP's) to minimize water quality impacts.

G. Road construction shall use BMP's outlined in the North Carolina Department of Transportation document entitled, "Best Management Practices for the Protection of Surface Waters."

H. Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.

I. Vegetative cover shall be reestablished in a manner consist with the Manual of Practice for all areas disturbed by land development activities on sites adjoining the buffer area and shall be maintained on a permanent basis.

J. All stormwater treatment systems used to meet the standards contained in this section shall be designed to achieve average annual 85% Total Suspended Solids (TSS) removal for the developed area of a site. Areas designated as open space that are not developed do not require stormwater treatment. All sites must employ LID practices to control and treat runoff from the first 1-inch of rainfall as described in the Manual of Practice.

K. Where any stormwater BMP employs the use of a temporary water quality storage pool as a part of its treatment system, the drawdown time shall be a minimum of 48 hours and a maximum of 72 hours.

L. Peak stormwater runoff rates shall be controlled for all development above 12% imperviousness. The peak stormwater runoff release rates leaving the site during post-construction conditions shall be equal to or less than the pre-development peak stormwater runoff release rates for the 2-year frequency, 24-hour duration storm event and 10-year frequency, 24-hour duration storm event. The emergency overflow and outlet works for any pond or wetland constructed as a stormwater BMP shall be capable of safely passing a discharge with a minimum recurrence frequency of 100 years. For detention basins, the temporary storage capacity shall be restored within 72 hours. Requirements of the North Carolina Dam Safety Act shall be met when applicable.

M. No one BMP shall receive runoff from an area greater than five (5) acres in size except wet detention ponds. However, the total drainage area from BMPs used in a series (i.e., integrated) can exceed this five (5) acre maximum.

N. BMPs shall not be constructed within jurisdictional waters.

4.7.5 Effect on Prior Approvals

This section shall render no valid permitted structure or conforming use nonconforming. An existing structure may be rebuilt if damaged or destroyed even if the structure fails to conform to these regulations.

4.7.6 Water Quality Management Plan Required

A. Development of all property within the HRC-O shall require the submittal of a Water Quality Management Plan demonstrating compliance with the standards of this section. This plan shall be required to be submitted for all development including residential subdivisions, non-residential development, planned developments and any other type of

development that increases the impervious area of the site except for single family development on a single lot of record created prior to the adoption of this section (January 20, 2004). No land disturbing activity shall take place prior to issuance of a grading permit.

B. Prior to issuance of grading permit for any property within the HRC-O, except for single family development on a single lot of record created prior to the adoption of this section (January 20, 2004), a wetlands jurisdictional assessment shall be performed by a US Army Corps of Engineer's qualified environmental professional using Army Corps of Engineers and NC Division of Water Quality criteria.

4.7.7 Buffer Areas Required

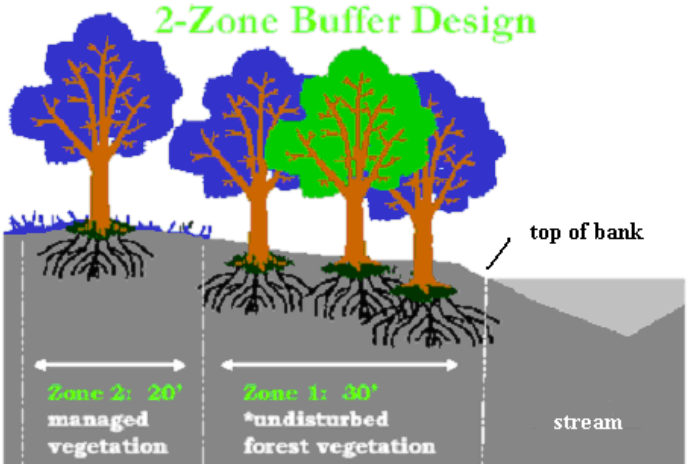
A. A minimum 50-foot vegetative buffer is required for all new development along all indicated or identified perennial and intermittent waters within the HRC-O district. Removal of vegetation shall be limited to the minimum necessary to reasonably carry out the development. In no case shall disturbance exceed the following:

(1) Buffer Zone 1 shall be a minimum of 30 feet from the top of bank and shall remain undisturbed. No new development is permitted within the Zone 1 buffer except for artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as road or utility crossings or installations or greenways where no practical alternatives exist. Activities within buffer areas shall minimize impervious coverage, direct runoff away from surface waters and maximize the utilization of stormwater best management practices.

(2) Buffer Zone 2 shall be a minimum of 20 feet extending landward from Buffer Zone 1. This buffer is an area of managed vegetation and shall be vegetated by grass, other ground cover or natural vegetation. Disturbance of existing vegetation shall be minimized to the greatest extent possible except for the installation of artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as utility service lines, road crossings, or greenways where no practical alternatives exist.

(3) Buffer widths may be averaged across the affected property. In no case shall less than a 20 foot wide buffer be maintained.

(4) Required buffers shall be reflected on all subdivision plats created following the adoption of this section.



B. A minimum 100-foot vegetative buffer is required for all new development along the main stem of the Henry River within the HRC-O district. Removal of vegetation shall be limited to the minimum necessary to reasonably carry out the development. In no case shall disturbance exceed the following:

(1) Buffer Zone 1 shall be a minimum of 50 feet from the top of bank and shall remain undisturbed. No new development is permitted within the Zone 1 buffer except for artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as road or utility crossings or installations or greenways where no practical alternatives exist. Activities within buffer areas shall minimize impervious coverage, direct runoff away from surface waters and maximize the utilization of stormwater best management practices.

(2) Buffer Zone 2 shall be a minimum of 50 feet extending landward from Buffer Zone 1. This buffer is an area of managed vegetation and shall be vegetated by grass, other ground cover or natural vegetation. Disturbance of existing vegetation shall be minimized to the greatest extent possible except for the installation of artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as utility service lines, road crossings, or greenways where no practical alternatives exist.

(3) Buffer widths may be averaged across the affected property. In no case shall less than a 40 foot wide buffer be maintained.

(4) Required buffers shall be reflected on all subdivision plats created following the adoption of this section.

4.7.8 Flood Plain Protection

No fill operations, dredging or other disturbance shall be allowed within flood plains, as defined on the most recent Federal Emergency Management Agency Flood Insurance Rate Map (FIRM), except for artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as roads, utilities or greenways where no practical alternatives exist. Permitted activities within designated flood plain areas shall be designed to minimize impacts on the flood plain to the greatest extent practicable by minimizing impervious coverage, maximizing preservation of existing vegetation, minimizing placement of fill materials, directing runoff away from surface waters and maximizing the utilization of stormwater best management practices.

4.7.9 Submittal Requirements

For any development within the HRC-O district, the following information shall be required to be submitted for review and approval:

A. The square footage and percent of proposed impervious coverage area.

B. For residential projects, total dwelling units and dwelling units per acre.

C. The accurate location of all perennial streams, buffers, and natural drainage areas on the property.

D. The location and landscaping proposed for all required buffer areas.

E. The plans shall show a location map, adjoining property owners, lot dimensions, and right-of-ways; the accurate location of all existing and proposed buildings and other structures, and the location and size in square feet of all existing impervious coverage areas.

F. The location of any BMPs and storm water control structures designed and sealed by a North Carolina registered professional engineer with qualifications appropriate for the type of system required.

G. The plans shall show drainage facilities, including approximate location and dimensions of open drainage ways, culverts, and where water is to be diverted through grading.

H. Written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency.

I. Permit application fees as set by the Hickory City Council.

J. A legal description of the area containing the BMPs and stormwater control structures, with provisions for access from a public right-of-way shall be prepared as an easement to be filed with the Register of Deeds. The easement shall include the BMPs and water control structures, vegetative filters, berms, dikes, and area necessary to perform inspections, maintenance, and repair.

K. Security performance bonds or other securities to provide adequate financial assurance for the construction, maintenance, repair or reconstruction of the BMPs and associated stormwater control structures. The construction performance security shall be released after the final inspection by the City Engineer. The maintenance security shall be effective when the construction performance security is released by the City Engineer.

L. The proposed Operation and Maintenance Agreement between the City of Hickory and the owner requiring the owner to maintain, repair, and if necessary, reconstruct the BMPs and associated stormwater control structures in accordance with the Operation and Management Agreement and the Maintenance Manual provided by the developer. The Operation and Maintenance Agreement and Maintenance Manual shall indicate what operation and maintenance actions are needed, what specific quantitative criteria will be used to determine when those actions are to be taken and that the owner is responsible for those actions.

4.7.10 Financial Security

A. All new BMPs and storm water control structures shall be conditioned on the posting of adequate financial assurance for the purpose of construction, maintenance, repairs or reconstruction necessary for adequate performance of the BMPs and storm water control structures.

B. Financial assurance shall be in the form of the following:

(1) Construction Security Performance Bond or Other Security The permit applicant shall choose and obtain either a construction performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the City of Hickory or placed in escrow with a financial institution designated as an official depository of the City of Hickory. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the storm water control structure, as estimated by the applicant and approved by the City Engineer. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.

(2) Maintenance Security

A maintenance security bond, irrevocable letter of credit, or other instrument (as mentioned above) shall be obtained by the owner in favor of the City. The face amount shall be determined by the City Engineer. The maintenance security shall be required to ensure that the owner takes the necessary actions to inspect, maintain, repair, and if necessary reconstruct the BMPs and stormwater control structures. The maintenance security must be submitted to the City Engineer before a permanent certificate of occupancy can be issued.

C. The permit applicant shall enter into a binding Operation and Maintenance Agreement between the City of Hickory and all interests in the development. The agreement shall require the owner to inspect, maintain, repair and, if necessary, reconstruct the BMPs and stormwater control structures in accordance with the Operation and Maintenance Agreement and Manual provided by the developer. The Operation and Maintenance Agreement and Manual shall be filed with the Register of Deeds by the Legal Department, at the owner's expense. The Operation Maintenance Agreement and Manual must be submitted and approved by the city before a permanent certificate of occupancy can be issued.

D. Default under Performance Bond Option

Upon default of the permit applicant to complete and/or maintain the BMPs and stormwater control structures as spelled out in the performance bond or other security, the City may obtain and use all or any portion of the funds necessary to complete and/or maintain the BMPs and stormwater control structures. The City shall return any funds not spent in completing the improvements to the owning entity.

E. Default under Cash Security Option

Upon default of the owning entity to construct, maintain, repair and, if necessary, reconstruct the BMPs and storm water control structures in accordance with the plans and specifications or Operation and Maintenance Agreement and Manual, the City shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owing entity to comply with the plans and specifications and the terms and conditions of the Operation and Maintenance Agreement and Manual. The City shall return any funds not spent in completing the improvements to the owning entity.

F. Operation and Maintenance Agreement and Manual

(1) The Operation and Maintenance Agreement and Manual shall indicate what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken, and consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a BMP and stormwater control structure to design specifications if a failure occurs.

(2) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the BMP and stormwater control structure is diminished or threatened, or to the extent of interfering with any easement or access to the BMP and storm water control structure.

(3) Except for general landscaping and grounds management, the owning entity shall notify the City Engineer prior to any repair or reconstruction of the BMP and

stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of BMP and the stormwater control structure and the Operation and Maintenance Agreement and Manual. After notification by the owning entity, the City Engineer may inspect the completed improvements and if necessary inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.

(4) Amendments to the plans and specifications of the BMP and stormwater control structure and/or the Operation and Maintenance Agreement and Manual shall be approved by the City Engineer. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) and submitted to the City Engineer for review and approval.

4.7.11 Application and Inspection Fees

A. Processing and inspection fees shall be submitted in the form of a check or money order made payable to the City of Hickory. Applications shall be returned if not accompanied by the required fee.

B. A permit and inspection fee schedule, as approved by the City of Hickory, shall be posted in the Office of the Planning Director.

C. Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the storm water control structure except in the case when a similar fee has been paid within the last 60 days.

4.7.12 Inspections and Release of the Construction Performance Bond

A. The City Engineer shall inspect the BMP and stormwater control structure, after the owner notifies the City Engineer that all work has been completed. At this inspection, the owning entity shall provide:

(1) The necessary easements and final survey plat for the BMP and stormwater control structure ready for filing with the Register of Deeds;

(2) A certification and as-built drawings sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) stating that the BMP and stormwater control structure is complete and consistent with the approved plans and specifications.

(3) A maintenance security in an amount approved by the City Engineer.

B. The City Engineer shall review the materials submitted by the developer and the final inspection report.

(1) If the City Engineer approves the final inspection report and accepts the certification, as-builts, and easements, the City shall file the easements with the Register of Deeds, at the owners' expense and release the construction performance bond or other security.

(2) If deficiencies are found, the City Engineer shall direct that improvements and inspections be made and/or documents corrected and resubmitted before a permanent certificate of occupancy can be issued.

4.7.13 Annual Inspections

A. All BMPs and stormwater control structures shall be inspected on an annual basis by a qualified professional to determine whether the BMPs and stormwater control structures

are performing as designed and intended. Records of inspection shall be recorded and submitted on forms supplied by the City Engineer. The annual inspection report shall be submitted to the City Engineer on/or before the first and each subsequent anniversary of the as-built certification.

B. The inspection report must indicate the status of each item inspected, and any maintenance that was conducted or repairs that were made as a result of the inspection.

4.7.14 BMPs and Stormwater Control Structures

A. All BMPs and stormwater control structures shall be designed by either a North Carolina registered professional engineer or landscape architect to the extent that the General Statutes, Chapter 89A allow. Other stormwater drainage systems shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architects to the extent that the General Statutes, Chapter 89A allow and land surveyors, as provided in General Statutes 89(C)-3(7).

B. All BMPs and stormwater control structures shall be designed in accordance with the requirements of the BMP Design Manual, latest edition.

C. All land areas outside of the BMP and stormwater control structures shall be provided with a ground cover sufficient to restrain erosion after any land disturbance. Upon completion of the BMPs and stormwater control structures, a permanent ground cover shall be established and maintained as part of the maintenance agreement.

D. A description of the area containing the BMPs and stormwater control structures shall be prepared and filed as a separate easement with the Register of Deeds along with any easements necessary for general access to BMPs and the stormwater control structures. The easement area shall include the BMPs and stormwater control structures, vegetative filters, all pipes, structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.

Sec. 4.8 NC 127 Central Corridor Overlay District (NC127-O)

4.8.1 Description

The NC 127 Central Corridor Overlay District (NC127 – O) is intended to implement the neighborhood-based planning policies of the Comprehensive Plan and to provide for the use of O&I-1 Zoned parcels within the overlay to be used for non-residential purposes while protecting the character and integrity of the surrounding residential neighborhood.

4.8.2 Establishment

The NC127 - O district will be applied in combination with OI Zoning District within the overlay district. The NC127 - O district shall be established and amended in accordance with the zoning map amendment procedures of Sec. 2.2.

4.8.3 Effect of NC 127- O District

The NC 127 - O district regulations shall apply in combination with underlying base zoning district regulations and all other applicable standards of this Land Development Code. When NC127 - O district standards conflict with the underlying base zoning district standards or other regulations of this Land Development Code, the regulations of the NC127 - O district will always govern. When no special NC127 - O district standards are specified all other applicable regulations of this Land Development Code will govern.

4.8.4 Effect on Prior Approvals and Existing Uses and Structures

This section shall render no valid permitted structure or conforming use nonconforming. An existing structure may be rebuilt if damaged or destroyed even if the structure fails to conform to these regulations.

4.8.5 Non-residential Use and Development Standards

Uses in the O&I district within the NC 127 – O shall be limited to the following:

A. Uses in the O&I -1districts within the NC127 – O shall be limited to the following:

(1) Parks, plazas and public open spaces areas; and

(2) Neighborhood-serving retail sales/service establishments and professional offices.

B. Prohibited Uses.

The following uses are prohibited in an NC127 - O district:

(1) Drive-in businesses, including gas stations, either as principal or accessory uses;

(2) Fast food restaurants;

(3) Drive-thru windows except those located at the rear of the building and not within 100 feet of a residentially zoned property;

(4) Uses involving the sale, rental, service, or repair of automobiles, trucks, or recreational vehicles;

(5) Industrial Uses as listed in Sec. 6.1 Use Table; and

(6) Outdoor sales, outdoor display of rental equipment, and outdoor storage.

4.8.6 Parking/Access

A. Off-street parking requirements shall be reduced by 50% in the NC127 - O.

B. The use of on-street parking is encouraged and may be used to meet minimum parking requirements in the NC127 - O district where deemed appropriate by the City Engineer. When off-street parking spaces are provided, they shall be subject to all parking/loading area design, construction and landscaping standards of the Land Development Code and the following requirements.

(1) No off-street parking spaces may be located between a frontage line and the adjoining right of way; and

(2) No driveway may exceed 24 feet in width.

(3) No driveway for a non-residential development shall be constructed without express approval from the City Engineer. To the greatest extent practical, primary ingress and egress to non-residential properties shall be from NC 127.

4.8.7 Architectural Compatibility

Buildings used or constructed for use in the NC127 – O shall be constructed so as to be architecturally compatible with the surrounding residential structures in the neighborhood. Architectural Compatibility shall include:

A. Buildings used for non-residential purposes shall not exceed 5,000 square feet in total floor area and two stories in height.

B. All such buildings shall have sloped roofs, entrances oriented towards the abutting street and be constructed of materials compatible with the building material used in the immediate area including brick, stone, wood, and other natural materials.

4.8.8 Signs (TA 11-01)

Non-residential properties in the NC127 – O shall be allowed one free standing externally lit sign, a maximum of 16 square feet in area and six (6) feet in height and one externally lit wall sign a maximum of 16 square feet in area.

Signs shall be constructed of materials compatible and consistent with the neighborhood in which they are located. Such materials shall be limited to wood, brick or stone (excluding smooth-faced block), iron or other similar metals, and other natural materials. Such signs may be created from synthetic materials that closely replicate the materials listed in this section.

All signs shall comply with the standards of this subsection, as well as the standards of Article 10.

Sec. 4.9 High Rise Sign Overlay District (HRS-O)

4.9.1 Description

The High Rise Sign Overlay District (HRS-O) regulates signage and advertising apparatus for businesses that rely on motorist utilizing U.S Interstate 40 (I-40). The boundaries of the HR-O are shown on the City of Hickory's Official Zoning Map.

4.9.2 Development Standards *(TA 11-01)*

A. No more than one (1) high rise sign shall be erected on a zoning lot. The maximum height of a high-rise sign shall not exceed 60 feet.

B. The maximum area of high-rise signs shall not exceed 150 square feet.

C. All high-rise signs shall be set back at least 5 feet from all lot lines.

D. Where a high rise sign is installed, an additional ground mounted freestanding sign may be installed. The area of the high rise sign shall be excluded from calculations of permitted sign area as outlined in Article 10.

Article 5 **Planned Developments**

Sec. 5.1 Planned Development Districts (PD)

5.1.1 Establishment

The Planned Development (PD) district is hereby established.

5.1.2 Planned Development Defined

Planned Development (PD) shall only be approved as part of a conditional zoning district in accordance with Land Development Code Sec. 2.2, generally, and Sec. 2.2.8 specifically. Applications for a zoning map amendment to an existing Planned Development District shall be processed and considered and voted upon in accordance with the procedures specified in Sec. 2.2 of this Land Development Code.

5.1.3 Relation to Major Transportation Facilities

Planned Developments shall be in conformance with the adopted Thoroughfare, Sidewalk and Bikeway Plans and located and designed as to provide direct access to and from such districts without creating significant traffic along minor streets in residential neighborhoods outside the district.

5.1.4 Relation to Public Utilities, Facilities and Services

Planned Developments shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems and other utilities systems and installations that minimum levels of service shall be maintained.

5.1.5 Relation to Public Transit

Where practical, Planned Developments shall be designed to accommodate public transit vehicles when such service is determined to be appropriate by the City.

5.1.6 Reduction or Increase in Minimum Area Generally Required

In connection with a particular Planned Development proposal, the City Council may approve as part of the conditional zoning approval:

A. Lesser areas than generally required upon findings, in the particular case, that special circumstances require such reduction, and the other requirements can be met in such lesser area, provided that generally no such reduction shall amount to more than 10 percent of the area generally required; or

B. Greater areas than generally required upon findings that, in the particular case, the proposed plan of development or the character of the property involved, in themselves or as it may reasonably be expected to develop, require such increase to meet the requirements and intent of PD zoning or to provide necessary special protection.

5.1.7 Alternate Development Standards

Property development and subdivision regulations including but not limited to setbacks, floor area ratios, building heights, landscaping requirements and parking and loading requirements shall comply with the standards provided within this article where such requirements are not specifically modified as an alternative development standard on the approved Master Land Use Plan. Regarding Master Land Use Plans see Sec. 5.1.9.

5.1.8 Planned Development District Specific Design Requirements

A. Minimum Area and Density

Land Use(s)	Minimum Required Area	Maximum Density [2]
Residential	5 acres	20 units per acre [1]
Office / Institutional	2 acres	0.75 FAR
Commercial	2 acres	0.85 FAR
Industrial	5 acres	0.75 FAR
Mixed-Use	5 acres	0.85 FAR

[1] The City Council may lower or increase permitted density if it finds such change is supported by and conforms to the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
[2] Maximum permitted floor area ratios (FAR) may be increased by the City Council.

B. Permitted Uses

Use permitted within Planned Development Districts shall be in conformance with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

C. Height Limitations

The maximum height of any structure located within a Planned Development District shall be 80 feet. Where a Planned Development District abuts a district with a lower permitted height requirement, all structures within the Planned Development district shall be setback two (2) additional feet for each one (1) foot the respective building(s) exceeds the height requirement of the adjacent district.

D. Use Orientation

Non-residential uses shall be oriented towards streets other than adjacent minor streets in residential neighborhoods, and away from residential neighborhoods, whether or not the district is separated from residential areas by streets.

E. Principal Vehicular Access Points

Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes or traffic dividers and extra width of the approach street shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the districts in such a way as to encourage use of such minor streets by substantial amounts of through traffic.

F. Landscaping Along Adjacent External Streets

Along external streets abutting the Planned Development District, a 10 foot wide landscaping area spanning the entire length of the frontage shall be provided and maintained in a manner identical to the standards for 10 foot wide landscaping strips as outlined within Sec. 9.14 of this Land Development Code.

G. Street connections

Streets in Planned Developments shall be connected to the surrounding street network where such connection provides a logical extension of the surrounding street system; provided such connections do not encourage inappropriate traffic types and volumes through established neighborhoods and further integrates the Planned Development into the surrounding neighborhood.

H. Provisions for Parking Linkage

Provisions shall be made to provide for connection of parking facilities to existing or proposed parking facilities on adjacent properties in order to protect the capacity of the external public street system.

I. Open / Park Space

All Planned Development Districts shall provide a minimum of 20% (twenty percent) of its gross land as maintained open or park space. No more than 50% percent of this requirement shall be fulfilled with undevelopable land or water bodies.

J. Property Subdivision

Any applicant that proposes to subdivide property within the boundary of a Planned Development shall do so in conformance with Article 8 of this Land Development Code.

K. Streets

Streets shall be constructed to the specifications required by the City of Hickory's Engineering Manual of Practice. Exceptions to street construction standards may be permitted if sufficient evidence is provided to ensure public safety and sound design are utilized.

L. Pedestrian and Bike Travel

All buildings or clusters of buildings within Planned Development Districts shall be connected with safe, convenient linkages other than streets (sidewalks, bikeways or walking paths).

M. Environmentally Sensitive Areas

All perennial streams, rivers, lakes, ponds, flood plains and steep slopes shall be protected and preserved as open space or recreation areas. Preservation of these areas may be counted towards required open space requirements. Where such resources are present, no design shall be approved unless it complies with the requirements of all applicable federal, state and local laws and regulations pertaining to these resources.

N. Overhead / Aerial Utilities

Electrical, Cable Television, Telephone and similar utility lines shall be underground in accordance with this Land Development Code.

O. Outdoor Lighting

All provided outdoor lighting shall be so designed as to minimize impacts upon adjacent properties. The maximum illumination permitted along the external boundaries of any Planned Development District onto any adjacent residentially zoned property shall be 0.20 foot-candles.

P. Building Spacing

Each building shall have yards surrounding the structure. The outer perimeter of these required yards shall be defined as the building site line. The minimum distance between adjacent buildings shall be as required by the North Carolina State Building and / or Fire Code.

Q. Staging

Planned Developments which are proposed to be completed in stages shall be required to provide a detailed phasing schedule. This detailed phasing schedule shall include areas, buildings, land-uses proposed for each phase and the timeframe for which required improvements (on and off site) are to be completed.

R. Off-site Improvements

In instances where off-site improvements, such as transportation or utility improvements, are required or proposed to serve the Planned Development, no phase subsequent to the first phase will not be permitted to commence until such off-site improvements are installed.

S. Operation and Maintenance of Facilities for Common Use

The ordinance approving any proposed Planned Development shall include a requirement that all common facilities not offered for dedication to the City be privately operated and maintained with no future expense to the taxpayers of the City of Hickory. An applicant may satisfy this requirement through appropriate restrictive covenants or any other method approved by the City. All proposed operation and maintenance documents shall be approved by the City prior to approve of the Planned Development.

5.1.9 Planned Development Master Land Use Plan Requirements

A. Planned Development Master Land Use Plans Defined.

Planned Development Master Land Use Plans are detailed site plans outlining activities proposed to be undertaken within Planned Development Districts. Such Master Land Use Plans shall provide detailed locations and intensities of all activities proposed to be undertaken within the proposed district. These activities shall include, but shall not be limited to, the location and type of land uses, the location and forms of buildings and parking areas, open space and park areas, phasing schedules and boundaries, streets and pedestrian facilities and landscaping areas.

B. Planned Development Master Land Use Plan Detailed Requirements

Planned Development Master Land Use Plans submitted as part of a Planned Development zoning map amendment, or as part of an amendment to an approved Planned Development District shall include maps and plans for the Planned Development Districts at a scale not smaller than 1” – 200’ that depict the following items:

(1) The name of the proposed Planned Development and the names of the developer and design professionals;

(2) Scale, dimensions, date, north arrow;

(3) Conceptual grading, site preparation and stormwater management;

(4) General location, height, number of stories, floor area, orientation, setbacks and proposed land-uses of all structures;

(5) Open space (designate public or private), floor area, recreation space and impervious surface area necessary to demonstrate conformance with applicable requirements;

(6) Landscaping and buffering;

(7) Any proposed property subdivision, including proposed future property lines;

(8) Primary vehicular and pedestrian circulation system including all proposed exclusive storage bays, turn lanes, vehicular and pedestrian cross access points, points of ingress and egress for principal pedestrian, vehicle, bicycle, and transit;

(9) Proposed street layout (both public or private);

(10) Location of all parking, loading, sanitation and recycling facilities; area and number of parking spaces in parking lots;

(11) Location, character and intensity of all proposed outdoor lighting fixtures;

(12) Location of all utility systems including;

(13) Location, height, dimensions and type of all signs; and

(14) Locally or nationally recognized historic structures.

Article 6 **Use Regulations**

Sec. 6.1 Use Table

6.1.1 [P] Permitted Uses

A "P" indicates that a use is permitted by right in the respective zoning district, subject to compliance with all other applicable regulations of this Land Development Code.

6.1.2 [S] Special Uses

An "S" indicates that a use is allowed only if reviewed and approved in accordance with the Special Use procedures of Sec. 2.4.

6.1.3 [AC] Accessory Uses

The abbreviation "AC" indicates that a use is allowed only as an accessory use in the respective zoning district. For additional information on accessory uses, see Sec. 6.3.

6.1.4 Uses Not Allowed

A blank cell (one that doesn't contain an "S" or "P") indicates that the listed use is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Land Development Code.

6.1.5 Classification of Uses

A. Considerations

(1) Uses are assigned to the category whose description most closely describes the nature of the primary use. Article 14 defines each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses. Developments with more than one primary use are addressed in Sec. 6.1.6.

(2) The following items are considered to determine what use category in which a use is placed, and whether the activities constitute primary uses or accessory uses:

(a) The description of the activity(ies) in relationship to the characteristics of each use category;

(b) The relative amount of site or floor space and equipment devoted to the activity;

(c) The relative amounts of sales from each activity;

(d) The customer type for each activity;

(e) The relative number of employees in each activity;

(f) Hours of operation;

(g) Building and site arrangement;

(h) Vehicles used with the activity;

(i) The relative number of vehicle trips generated by the activity;

(j) Signs;

(k) How the use advertises itself; and

(l) Whether the activity would be likely to be found independent of the other activities on the site.

6.1.6 Developments with Multiple Primary Uses

When all of the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the standards for that category.

6.1.7 Unlisted Uses

If an application is submitted for a use type that is not listed in the use table of this section, the Planning Director shall be authorized to classify the new or unlisted use type into an existing land use category that most closely fits the new or unlisted use.

6.1.8 Standards and Conditions

Some uses in some zoning districts are subject to special use-specific conditions and standards. These standards and conditions are indicated by bracketed numbers“[1]” or by a cross-reference in the final column of the table. Cross references refer to detailed standards that apply to the listed use type. Bracketed numbers refer to conditions that immediately follow the use table.

	R-1	R-2	R-3	R-4	NC	CC-1	CC-2	OI	C-1	C-2	C-3	IND	Standards (Notes)
Residential Categories													
Residential Household Living													
Single-family Residence	P	P	P	P	S	S	S	P	P				
Accessory Dwelling Unit	P	P	P	P									6.3.2
Caretaker's Residence										AC	AC	AC	
Duplexes	P		P	P	P	P	P	P	P				*(TA 11-01 & 14-01)*
Manufactured Home	P			P									6.2.13
Manufactured Home Park	S			S									6.2.14
Multi-family Structure			P	P	P	P	P	P	P	P	P		
Upper Story Residential					P	P	P	P	P	P	P		
Group Living													
Family Care Home (6 or fewer residents)	P	P	P	P	S	S	S	P	P				
Group Living Facility (7 or more residents)	S	S	S	S				S		S			6.2.9
Nursing, Convalescent, and Extended Care Facilities	S	S	S	S	S	P	P	P		P			6.2.17
Commercial Categories													
Animal Hospital/Veterinary Clinic					P	P	P	P	P	P	P	P	6.2.2
Amusement Facilities, Indoor					P	P	P		P	P	P	P	
Amusement Facilities, Outdoor						P	P			P	P	P	
Bed and Breakfast	S	S	S	S	P	P	P	P	P	P			6.2.3 *(TA 11-01)*
Campground/Recreational Vehicle Park	S												
Electronic Gaming Operation										S	S		6.2.8
Drinking Establishment					S	S	S		S	S	S		*(TA 11-01)*
Major Event Entertainment									S	S	S	S	
Marina										P	P		6.2.12 *(TA 11-01)*
Mini-storage Facilities						P	P			P	P	P	6.2.15
Office and Personal Services					P	P	P	P	P	P	P	P	
Retail Sales and Service (unless otherwise listed)					P	P	P		P	P	P	P[1]	
Seasonal Sales					P	P	P		P	P	P		6.2.21 *(TA 14-02)*
Temporary Sales					AC	AC	AC		AC	AC	AC		6.2.21 *(TA 14-02)*
Vehicle Repair						P	P		P	P	P	P	6.2.22

	R-1	R-2	R-3	R-4	NC	CC-1	CC-2	OI	C-1	C-2	C-3	IND	Standards (Notes)
Industrial Categories													
Industrial Service						S [2]			S[2]	P [2]	P [2]	P	
Junkyards and Recycling Facilities												S	6.2.10
Manufacturing and Production						S[2]			S[2]	P [2]	P [2]	P	
Railroad Yards												P	
Warehouse and Freight Movement										P [3]	P [3]	P	
Waste-related												S	
Wholesale Sales										P [3]	P [3]	P	
Institutional Categories													
Basic Utilities	P	P	P	P	P	P	P	P	P	P	P	P	
Cemetery	P	P	P	P	P	P	P	P	P	P	P	P	6.2.4
Colleges					S	S	P	P	P	P	P	P	
Community Recreation Centers	S	S	S	S	P	P	P	P	P	P	P	P	6.2.5
Cultural Facilities	S	S	S	S	P	P	P	P	P	P	P		6.2.6
Daycare (5 or fewer clients)	AC	AC	AC	AC	P	P	P	P	P	P	P		6.2.7 *(TA 11-01)*
Daycare (6 or more clients)	S	S	S	S	P	P	P	P	P	P	P		6.2.7
Medical Centers					P	P	P	P	P	P	P		
Parks and Playgrounds	P	P	P	P	P	P	P	P	P	P	P		
Public Facilities	S	S	S	S	S	P	P	P	P	P	P	P	6.2.19
Religious Institutions	P	P	P	P	P	P	P	P	P	P	P	P	
Schools	S	S	S	S	P	P	P	P	P	P	P		6.2.20 *(TA 11-01)*
Other Categories													
Adult Business												S	6.2.1
Agriculture	P											P	
Airports												P	
Detention Facilities												S	
Kennels	S				S	S	S			S	S	S	6.2.11
Mining												S	6.2.16
Open Storage, Accessory										AC	AC	AC	6.3.5
Open Storage, Principal												S	6.2.18

	R-1	R-2	R-3	R-4	NC	CC-1	CC-2	OI	C-1	C-2	C-3	IND	Standards (Notes)
Parking, Off Street	P[4]	P[4]	P[4]	P[4]	P	P	P	P	P	P	P	P	
Wireless Communication Facilities, Alternative Structures/Collocation	P	P	P	P	P	P	P	P	P	P	P	P	6.2.23
Wireless Communication Facilities, New Towers	S	S	S	S	P	P	P	P	P	P	P	P	6.2.24

[1] No Retail use in an Industrial district shall occupy more 20,000 square feet of floor area and outdoor storage area per zoning lot.

[2] Industrial Size Limitation: Floor area shall be no more than 20,000 square feet per zoning lot in the CC-2 and C-1 zoning districts. All activities must be conducted entirely within an enclosed building in the CC-1 and C-1 districts. Floor area and outdoor storage areas related to a use shall be no more than 25,000 square feet per zoning lot in the C-2 district and 50,000 square feet per zoning lot in the C-3 zoning district.

[3] Industrial Size Limitation: Floor area and outdoor storage areas related to a use shall be no more than 25,000 square feet per zoning lot in the C-2 district and 50,000 square feet per zoning lot in the C-3 zoning district.

[4] Off street parking is only permitted for uses permitted in the zoning district.

6.2.1 Adult Uses / Sexually Oriented Business

A. All windows, doors, entries, etc. for all adult uses shall be so located, covered, screened or otherwise treated (such treatment shall not include painting) so that views of the interior of the establishment shall not be visible to the public from any public or semi-public area, or public or semi-public street.

B. No adult use shall be located within 1,000 feet of another adult use. This distance shall be measured as a straight line from property line to property line.

C. No adult use shall be located within 1000 feet of any residential zoning district, religious institution, school, child daycare, and/or public park or playground. This distance shall be measured in a straight line from property line to property line.

D. Nothing in this subsection shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this Land Development Code or the laws of the City of Hickory or the State of North Carolina.

E. All structures associated with an adult use / sexually oriented business shall be setback at least 50 feet from all property lines and/or rights-of-way.

F. The maximum permitted floor area ratio (FAR) of any adult use / sexually oriented business shall be 0.40.

G. No more than one (1) adult use / sexually oriented business shall occupy the same building, structure and/or property or any portion thereof. No other principal or accessory use may occupy the same building, structure, property or portion thereof with any adult use / sexually oriented business.

H. Except for business signs, permitted within Article 10 of this Land Development Code, no other promotional materials, displays or signs shall be visible to the public from sidewalks, walkways, alleys, or street.

I. Any adult use / sexually oriented business shall be located on an individual lot of record, and shall not be part of a combined development.

J. All adult uses / sexually oriented business shall be open to inspection at all reasonable times by any law enforcement officer, the Planning Director, or such other persons as the Planning Director may designate in the normal course of his duties.

K. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult use / sexually oriented business.

L. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

6.2.2 Animal Hospital or Veterinary Clinic

A. All activities, with the exception of animal exercise yards, shall be conducted within an enclosed building.

B. Buildings housing animal hospitals or veterinary clinics shall be set back at least 100 feet from any adjacent residential district.

C. Exercise and confinement yards shall be set back at least 200 feet from any lot occupied by a dwelling unit.

6.2.3 Bed and Breakfast

A. All required off-street parking shall be located outside of required yards.

B. One parking stall shall be provided for each bedroom together with 2 parking stalls for the permanent residents.

C. No more than six bedrooms shall be dedicated to accommodation of transients.

D. The operators shall be full-time residents of the premises.

E. Signs shall be limited to one non-illuminated sign of up to 6 square feet in area.

F. The serving of meals to transients shall be limited to breakfast only.

6.2.4 Cemetery

A. All requirements of the North Carolina General Statutes regarding interment of the human or animal dead shall be met.

B. There shall be adequate space within the site for the parking and maneuvering of funeral corteges.

C. No interment shall occur within 30 feet of any lot line.

D. All structures shall be set back at least 25 feet.

E. All structures over 25 feet in height must be set back a minimum of 25 feet plus 2 feet for each foot of height above 25 feet to the maximum height permitted in the district in which it is located or 50 feet, whichever is more restrictive.

6.2.5 Community Recreation Centers

A. Where membership is not limited to residents of adjacent residential areas, the site shall have direct access to an arterial or collector street.

B. A minimum lot size of 20,000 square feet shall be provided.

C. All required setbacks shall be at least 40 feet.

D. The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20-foot candles.

6.2.6 Cultural Facilities

A. The use shall have direct access to an arterial or collector street.

B. A minimum lot size of 40,000 square feet shall be required.

C. Retail sales of historical, educational and cultural objects shall be limited to 5% of the total usable floor area of the use. Uses that devote higher percentage of higher percentage to retail sales shall be classified as Retail Sales/Service.

D. No external evidence of retail sales shall be permitted.

6.2.7 Daycare (Child and Adult)

A. A paved driveway providing adequate vehicle stacking and turn around areas for pick up and drop-off of children or adults shall be provided

B. Uses designed to accommodate more than 30 persons shall be located upon and have direct access to an arterial or collector street and have a minimum lot size of 30,000 square feet.

C. Evidence shall be submitted that the requirements and standards of the NC Department of Health and Human Services have been and shall continue to be met.

6.2.8 Electronic Gaming Operations

A. No more than twenty (20) machines / terminals / computers for gaming operations may be permitted per licensed location.

B. No portion of a zoning lot on which a gaming operation is located may be within one-thousand (1,000) feet of another Electronic Gaming Business, residential zoning district, child care center, religious institution, elementary school, middle school, high school, recreation center or park.

C. Gaming operations may only operate between the hours of 8:00 A.M. and 10:00 P.M.

6.2.9 Group Living (*TA 12-01)*

A. The use must be located at least 1,200 feet of another such Group Living facility or Family Care Home.

B. All applicable requirements and standards of the North Carolina Department of Health and Human Services have been and shall continue to be met.

C. No external evidence of such use, distinguishing the group living facility from a regular dwelling, shall be visible from adjacent property, public or private.

D. Each facility shall be designed and built to appear as similar to a residential structure as possible.

E. All nursing, convalescent and extended care facilities shall have direct access to a collector or arterial street, as shown on the Thoroughfare Plan.

F. Buffers and screening shall be provided, as required by Section Sec. 9.14.

G. Signs shall be limited to one non-illuminated sign with a maximum area of 6 feet. Said sign shall be attached either flush to the wall or the building or else shall be located at ground level with a maximum height of 4 feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.

6.2.10 Junkyards and Recycling Facilities

A. The minimum lot size shall be 2 acres.

B. The minimum setback of any active processing facility from a residentially zoned or used property shall be 500 feet or 100 feet if conducted within an entirely enclosed building.

C. Processed or unprocessed materials shall be stored no closer than 50 feet from any property line.

D. Access roads shall be paved; however processing areas may be unpaved so long as appropriate erosion control measures are taken, as identified by the Catawba County Soil and Erosion Control Division of the Utilities and Engineering Department, or if the facility is located in a county other than Catawba County, as identified by the equivalent office of said county.

E. Junkyards, recycling and salvage facilities shall be required to be screened from view of any public or private street and from all residentially zoned land through the installation of a minimum eight (8) foot tall solid fence, wall, vinyl slats (90% opaque) or dense evergreen landscaping. Dense evergreen landscaping shall be used to the maximum extent practicable.

6.2.11 Kennels

A. All activities, with the exception of animal exercise areas, shall be conducted within an enclosed soundproof building.

B. Outdoor exercise areas are only permitted in the R-1 and IND districts.

C. No kennel in a NC, CC-1, CC-2, or C-2 district shall house more than 25 animals at a time.

D. The breeding of animals for sale on-site shall only be permitted in the R-1 and IND districts.

E. Outdoor exercise areas shall observe a 100-foot setback from all lot lines.

F. The disposal methods for wastes generated shall be reviewed and approved by the appropriate Department of Health.

G. No noise levels above surrounding ambient levels shall be detectable at the zoning lot boundaries of the lot containing the kennel.

H. No odors greater than ambient odors shall be detectable at the zoning lot boundaries of the lot containing the kennel.

6.2.12 Marina

A. All operations shall be so located as to prevent hazards to navigation.

B. Major repair of boats and marine engines shall be prohibited. Routine maintenance activities, such as changing of engine fluids, shall not be considered to be major repairs.

C. The maximum capacity of the operation shall be 100 craft.

6.2.13 Manufactured Homes *(TA 11-01)*

A. Manufactured homes meeting the criteria outlined in this section are permitted on all lots where specified in the use table. All manufactured homes shall have been constructed after July 1, 1976 and meet or exceed the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction. All manufactured homes placed on individual lots, used as a replacement for an existing manufactured home, or placed in Manufactured Home Parks must meet the criteria below.

B. The Manufactured Home shall:

(1) Be occupied only as a single-family dwelling;

(2) Have a minimum width of sixteen (16) feet. Manufactured homes placed in manufactured home parks shall have a minimum width of fourteen (14);

(3) Have a length not exceeding four (4) times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part. This provision does not apply to manufactured homes placed in Manufactured Home Parks;

(4) Be set up in accordance with the standards established by the North Carolina Department of Insurance. Skirting material for Manufactured Homes set up in Manufactured home parks shall be of a material resistant to rust and decay. Manufactured Homes placed on individual lots shall have a continuous, permanent masonry foundation or masonry curtain wall installed under the perimeter. This wall shall be constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one and two-family dwellings, with no openings except for required ventilation and access. The masonry curtain wall or masonry foundation shall be solid brick or brick veneer. If any masonry other than brick is used, then it must be painted. Installation shall include a positive surface water drainage away from the home;

(5) Have exterior siding, comparable in composition, appearance durability to the exterior siding commonly used in standard residential construction, consisting of the following materials:

(a) Vinyl or aluminum siding (whose reflectivity does not exceed that of flat white paint;

(b) Cedar or other wood;

(c) Stucco; or

(d) Brick or stone.

(6) Have a roof pitch minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run;

(7) Have a roof finished with a Class C or better roofing material that is commonly used in standard residential construction. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter;

(8) Stairs, porches, entrance platforms, ramps and other means of entrance and exit are installed or constructed in accordance with the standards set by the NC Building Code, attached firmly to the primary structure, and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of twenty-four (24) square feet. The use of wood stairs only is prohibited at any entrance; and

(9) Be in full compliance with the City of Hickory's Minimum Housing Code.

6.2.14 Manufactured Home Park

A. Where Permitted; Intent

Manufactured Home Parks may hereafter be established in the R-1 and R-4 zones in accordance with the general procedures and requirements set forth herein. It is the intent of these regulations to provide for development of such parks in scale with surrounding areas, at locations appropriate, and in accord with standards set forth herein, designed to meet the needs of the residents and to achieve a satisfactory relationship to adjoining and nearby property. Location on minor thoroughfares or collector streets is encouraged. Where location on a major thoroughfare is proposed, special attention shall be given to entrance design, and a minimum setback of 60 feet shall be provided along the major street. Preservation or planting of trees in this setback is required. Classification of

major or minor thoroughfares shall be made by reference to the Hickory Thoroughfare Plan.

B. Permitted Principal and Accessory Uses and Structures

(1) Principal Uses and Structures Permitted

(a) Manufactured homes meeting City of Hickory appearance criteria;

(b) Service buildings and areas necessary to provide laundry, sanitation, storage, vending machines, and other similar services provided by the facility operator for the use and convenience of district occupants;

(c) Recreation buildings and areas serving only the development in which they are located;

(d) Caretaker's or manager's home or office;

(e) Customary accessory buildings and facilities necessary for operation of the manufactured home park;

(2) Permitted Accessory Uses and Structures

(a) Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structures including, in a district containing a total of at least 50 dwelling units, establishments for the sale of convenience goods and personal service establishments, provided that the floor area occupied by all such establishments shall not total an amount in excess of 5% of the residential floor area of such district.

(b) Such establishments shall be designed and scaled to meet only the requirements of the district's occupants and their guests. There shall be no evidence of such establishments from any public street.

C. Minimum Land Area for Manufactured Home Parks

The minimum gross land area required for a Manufactured Home Park is 10 acres in R-1 districts and 3 acres in the R-4 district.

D. Maximum Allowed Intensity of Residential Development Permitted

The maximum permitted intensity of residential development within a Manufactured Home Park shall be 3 dwelling units per acre in R-1 districts and 6 dwelling units per acre in R-4 districts.

E. Development Requirements for Manufactured Home Parks

(1) The surface of each manufactured home site shall be graded for proper drainage and configured per the setback and required yard provisions for the underlying zoning district.

(2) No manufactured home site may have direct access to an existing public street.

(3) Manufactured home park streets shall meet the residential street standards of the Article 8 and the Manual of Practice.

(4) A driveway, a minimum of 12 feet in width, must be provided for each manufactured home site.

(5) Existing site trees shall be preserved where possible. Where they do not exist, appropriate street trees shall be provided, planted and serviced in accordance with the landscaping standards and specifications of this Land Development Code and Manual of Practice.

(6) Two off-street parking spaces per site shall be provided.

(7) Natural site features shall, to the extent feasible, be preserved.

(8) Each manufactured home must have a permanent patio or treated wood deck at least 180 square feet in area, located adjacent to the manufactured home.

(9) A walkway must be constructed for each manufactured home site to connect the parking area and patio.

F. Open Space Dedication in Manufactured Home Parks

Open space to serve the anticipated population shall be provided per the requirements of Sec. 8.14 of the Subdivision Regulations.

G. Manufactured Home Appearance Criteria for Manufactured Home Parks

Manufactured homes placed in Manufactured Home Parks shall meet the appearance criteria of section 6.2.13

H. Site Planning

Site planning within the district shall provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development. Such adverse influences shall include diminished levels of public services, inadequate transportation infrastructure, and the like.

I. Signs visible from outside Manufactured Home Park

No signs visible from outside the Manufactured Home Park shall be erected within such districts other than not to exceed two signs identifying the development, with total maximum surface area not to exceed 16 square feet, at each principal entrance to the development. In addition, during the process of construction and initial sale or rental within such development, temporary announcement signs may be allowed as provided in Sec. 10.10.

J. Internal Relationships

(1) The site plan shall provide for safe, efficient, convenient and harmonious grouping of structures, uses and facilities, for appropriate relation of space inside and outside buildings to intended uses and structural features, and for preservation of desirable natural features and minimum disturbance of natural topography.

(2) In particular, streets, drives, parking and services areas shall provide safe and convenient access to dwelling units and general facilities, and for service and emergency vehicles. Streets shall not be so laid out as to encourage outside traffic to traverse the development on minor streets, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the development into small blocks. In general, block size shall be the maximum consistent with the use and shape of the site and the convenience and safety of occupants.

(3) Vehicular access to streets shall be limited and controlled as follows:

(a) If the street or portion thereof serves 50 or less dwelling units, vehicular access from off-street parking and service areas may be directly to the street from the sites of individual dwelling units. Determination of number of dwelling units served shall be based on normal routes of traffic anticipated in the development.

(b) Vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic from and to such areas conveniently, safely and in a manner which minimizes marginal traffic friction and promotes free flow of traffic on streets without excessive interruption.

(c) Ways for pedestrians and cyclists; use by emergency or service vehicles. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwelling units, project facilities, and principal off-site pedestrian destinations.

(d) Walkways to be used by substantial numbers of children as play areas or routes to school or other destinations shall be so located and safeguarded so as to minimize contacts with normal automotive traffic. If substantial bicycle traffic is anticipated, bicycle paths shall be coordinated with the walkway system. Street crossings shall be held to a minimum on such walkways, shall be located and designed to promote safety, and shall be appropriately marked and otherwise safeguarded.

6.2.15 Mini-storage Facilities

A. Such facilities shall front on and take access from a collector or arterial street.

B. Such facilities shall be used only for dead storage of materials or articles and shall not be used for assembly, retail or business purposes.

C. The storage of dangerous items or hazardous materials is prohibited.

6.2.16 Mining

A. For purposes of these regulations, extraction of earth products shall mean the mining, quarrying, developing of mines for exportation of extractive materials primarily for commercial purposes. Including but not limited to treating, crushing, or processing the material or off-site disposition of more than 500 cubic yards of fill or other materials.

B. Extraction of earth products in association with an approved development plan shall be considered to be an accessory use. Such operations shall employ best management practices to control on-site erosion and the transfer of mud, dirt and debris on to public streets by vehicles exiting the site. Where deemed appropriate by the City Engineer, a bond may be required to be posted to insure that public streets are maintained free of excessive accumulations of mud, dirt and debris and the road surfaces are not damaged by hauling operations.

C. In addition to the information required for all applications for approval of special uses, the following shall be submitted as part of the application:

(1) Site Plan. Three copies of site plan, prepared by a North Carolina Registered Land Surveyor or Engineer, which shall contain the following:

(a) North Point, scale and date.

(b) Extent of area to be excavated or mined.

(c) Locations, width and elevation of all easements and rights-of-way within or adjacent to the extraction site.

(d) Location of all existing or proposed structures on site.

(e) Location of all areas on the site subject to flood hazard or inundation, as shown on flood maps or soils maps.

(f) Location of all water courses on the site, including direction of flow and normal fluctuation of flow.

(g) Existing topography at a contour interval of 5 feet based on mean sea level datum.

(h) Proposed handling and storage areas for overburden, byproducts and excavated materials.

(i) Proposed fencing, screening and gates; parking, service and other areas.

(j) Any areas proposed for ponding.

(k) Access roads to the site, as well as on-site roads, with indication of surface treatment to limit dust. Sight distances on all roads used for access to the site shall be shown.

(2) Operations Plan. An operations plan, which shall include:

(a) The date proposed to commence operations and their expected duration.

(b) Proposed hours and days of operations.

(c) Estimated type and volume of extraction.

(d) Description of method of operation, including the disposition of topsoil, overburden and byproducts.

(e) Description of equipment to be used in the extraction process.

(f) Any phasing of the operation and the relationship among the various phases.

(g) Description of proposed haul routes.

(h) Operating practices that will be followed to comply with the performance standards applicable to the operation.

(3) Rehabilitation Plan. A rehabilitation plan, which shall include:

(a) A statement of planned rehabilitation of the excavated land, including detailed methods of accomplishment and planned future use of the rehabilitated land.

(b) A map showing the final topography, after rehabilitation, to the same scale as the site plan; it shall also depict any water areas and methods for preventing stagnation and pollution thereof, landscaping and ground cover proposed to be installed and the amount and type of backfill to be employed, if any.

(c) A phasing and timing plan, related to the phasing and timing portion of the operations plan, showing the progression of the rehabilitation and the date when it will be complete.

(d) The method of disposing of all equipment, structures, dikes and spoil piles associated with the operations.

(e) The name, address and signatures of land owners and applicants.

(f) A written legal description and survey of the property, prepared by a North Carolina Registered Land Surveyor or Engineer.

(g) A fee, as set by the City Council.

(4) Standards for Evaluation

The following standards shall be used in evaluating an application for a permit to conduct extraction of earth products:

(a) Direct illumination resulting from the operation shall not fall upon any land not covered by the application.

(b) Equivalent sound levels at the boundaries of the extraction site shall not exceed the following standards:

Between 7:00 am and 7:00 pm	68 dBA
Between 7:00 pm and 7:00 am	58 dBA

(c) Vibration levels at the boundaries of the extraction site shall not exceed the following standards:

Maximum Peak Particle Velocity	
Steady State	1.0 Inches/Second
Impact	2.0 Inches/Second

Note: The maximum particle velocity shall be the product of two times the frequency in cycles per second times the sum of 3 mutually perpendicular displacement components recorded simultaneously. For purposes of this Land Development Code, steady state vibrations are vibrations that are continuous, or vibrations in discrete impulses more frequent than 60 per minute. Discrete impulses that do not exceed 60 per minute shall be considered impact vibrations. Maximum air blast vibration, measured at the lot lines of the zoning lot containing the extractive use, shall be 125 decibels on the linear scale.

(5) The rehabilitation plan shall be referred to the appropriate county soil and water conservation district for review and recommendation, which shall not be binding upon the City Council, in particular, regarding the landscape material specified, the planting and maintenance proposed to insure continuous growth and development, and the acceptability of the proposals for the handling of lakes, ponds, etc.

(6) The permanent roads, defined as those to be used in excess of one year within the excavation site, shall be surfaced with a dust-free material such as soil cement, bituminous concrete or Portland cement concrete from the nearest public road to the yard area. Also, all permanent roads located within 300 feet of residentially zoned land shall be treated the same.

(7) Roads other than permanent roads shall be treated with dust inhibitors, to be specified in the operations plan, which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action. Properly operated water wagons shall be an acceptable method of dust inhibition.

(8) Where the proposed extraction shall take place within 300 feet of a dwelling, school, church, hospital, commercial or industrial building, public building or public land, a security fence at least six feet high shall be installed.

(9) Spoil piles and other accumulations of byproducts shall not be created to a height more than forty feet above the original contour and shall be so graded that the vertical slope shall not exceed the material's natural angle of repose.

(10) Extraction of earth products operations shall employ best management practices to control on-site erosion and the transfer of mud, dirt and debris on to public streets by vehicles exiting the site.

(11) Operators shall be responsible for preventing (and correcting) excessive wear and tear on public streets.

(12) The operations plan and the rehabilitation plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with extraction.

(13) The City Council shall require, for all extractive uses, a performance guarantee to insure that the provisions of the rehabilitation plan are met. Such performance guarantees shall be in a form approved by the City of Hickory. The amount of such guarantee shall cover the cost of rehabilitation. The applicant's engineer shall certify the costs of rehabilitation on a per acre basis, if the cost does not exceed the amount posted with the State of North Carolina.

6.2.17 Nursing, Convalescent, and Extended Care Facilities *(TA 11-01)*

A. All nursing, convalescent and extended care facilities shall have direct access to a collector or arterial street, as shown on the Thoroughfare Plan.

B. The minimum lot size shall be 30,000 square feet, and all lots shall have a minimum street frontage of 150 feet.

C. Front, rear and side setbacks shall be a minimum of 50 feet.

D. Buffers and screening shall be provided, as required by Sec. 9.14.

E. The applicant shall provide written evidence that all the regulatory requirements of the State of North Carolina have been and shall continue to be met.

6.2.18 Open Storage

(1) Open storage as a principal use shall not be allowed in the required setback area of any front yard.

(2) Open storage areas as a principal use shall be screened from view of any major and/or minor transportation roadway as shown on the Hickory By Choice Future Land Use and Transportation Plan Map and from all residentially zoned land through the installation of a minimum 6 foot tall solid fence, wall vinyl slats (90% opaque) or dense evergreen

landscaping. Dense landscaping shall be used to the maximum extent practicable.

6.2.19 Public Facility

A. Buffers and screening shall be provided as required by Sec. 9.14.

B. Front, rear and side setbacks shall be a minimum of 50 feet.

C. Whenever possible, such facilities shall be designed and constructed to have the same height and bulk as adjacent structures, but when necessitated by operating requirements, a public facility may exceed the height of adjacent structures and the maximum height limit for the zoning district in which the facility is located. If the public facility exceeds the maximum height for the district, it shall be set back one additional foot beyond the required minimum setback for each foot of height above the district maximum.

D. When operating requirements necessitate heights above the district maximum, an additional one-foot setback shall be required for each foot of height above the district maximum.

6.2.20 Schools

A. The school shall meet all health and safety requirements required of a local school administrative unit by the North Carolina Department of Public Instruction.

B. The school shall provide a play area or areas adequate to serve all students with recreation for at least one standard class period each day. If an outside play area is provided, it shall be fenced.

C. The school shall provide for the safe loading and unloading of students on school property so as not to create congestion on public streets.

D. High schools and middle schools shall be sited on Transportation Plan Roadways. Elementary schools may be sited on local streets so long as proper consideration is given in providing access to the site that creates safe traffic patterns and does not unduly disrupt the surrounding neighborhood.

E. The applicant shall provide a floor plan and preliminary development concept plan in accordance with Section 2.6, Special Uses.

6.2.21 Seasonal and Temporary Sales *(TA 14-02)*

A. Seasonal sales are characterized as sales activities, either primary or accessory in nature, conducted on zoning lots, which may be absent of other businesses. Seasonal sales include the display and sale of Christmas trees, fireworks, pumpkins, and other goods commonly associated with a holiday or seasonal activity.

B. Temporary sales are characterized as accessory sales activities conducted on improved zoning lots where the business conducting the temporary sale is located. Temporary sales include, but are not limited to, the display and sale of landscape supplies, building materials that are not otherwise required to be screened, outdoor furniture, and recreational equipment.

Property and/or business owners may permit for short-term temporary sales by not-for-profit groups, such as Girl Scout troops, high school groups and similar organizations, to be conducted on their premises. These types of sales will not be required to obtain a temporary sales permit; provided such sales do not utilize temporary structures, cooking devices or portable power (generators). Should

such sales utilize these types of items a temporary sales and/or special event permit shall be required.

All City sponsored or approved special events shall be exempt from this section. Furthermore, properly licensed and permitted food trucks shall also be exempt from this section, provided they are located within non-residential zoning districts.

C. Operators of seasonal or temporary sales areas shall obtain a zoning compliance approval from the Planning Director and may require a privilege license. The operator shall provide a site plan illustrating the temporary sales area, location of pedestrian areas, a statement regarding the duration, authorization of the property owner, and any permit or other fees as approved by the City Council.

D. The Planning Director may issue a seasonal sales permit for a maximum of forty-five (45) days per calendar year, and may issue a temporary sales permit for a maximum of ninety (90) days per calendar year. With the exception of Christmas trees and similar holiday oriented agricultural or horticultural products, the time limitations (calendar days) contained herein shall not apply to the sales of agricultural or horticultural goods/products.

E. Seasonal or temporary sales that use a tent occupying more than 200 square feet shall require approval from the Fire Marshall.

F. Seasonal or temporary sales may only be located on commercially zoned properties and shall not utilize more than 20% of the required parking stalls provided on the site for temporary sales purposes.

G. All seasonal or temporary sales shall be located outside the public right of way.

H. All seasonal or temporary sales shall be located outside of safe sight distances and landscaped areas.

I. All seasonal sales shall be located in such a manner as to provide parking outside the right of way and not otherwise create an unsafe traffic condition.

J. Signs shall be limited to a maximum of 32 square feet in area and require a temporary sign permit consistent with Article 10.

6.2.22 Vehicle Repair

A. Activities located outside of buildings shall be limited to the dispensing of gasoline, oil, water, and air. All repair activities shall take place within buildings.

B. The exterior openings for automobile ingress and egress to work areas shall not be located on walls of buildings adjacent to residences or residentially zoned property.

6.2.23 Wireless Communication Facilities, Alternative Structures or Collocation *(TA 14-01)*

A. Uses and Structures Allowed. The following alternative tower structures, uses, modifications, and additions may be approved by the Planning Director after conducting an administrative review:

(1) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower or other free-standing, nonresidential structure) that is more than 50 feet in height, so long as such addition does not add more than 20 feet to the height of the existing structure;

(2) Installing an antenna on an existing nonresidential structure other than a tower (such as a building sign, light pole, water tower, utility pole or other free-standing, nonresidential structure) in any commercial or industrial district that is less than 50 feet in height so long as such addition does not add more than 20 feet to the height of the existing structure;

(3) Installing an antenna on an existing tower of any height, including a pre-existing tower, provided such addition does not increase the vertical height of the structure more than the greater of:

(a) ten percent (10%) of the vertical height of the existing tower; or

(b) the height of one (1) additional antenna array, with separation from the nearest existing antenna array not to exceed twenty (20) feet.

(4) The addition of appurtenance to the body of an existing tower that protrudes horizontally from the edge of the tower no more than the greater of:

(a) twenty (20) feet; or

(b) the width of the existing tower at the level of the appurtenance.

(5) Increasing the area of the existing compound by no more than 2,500 square feet.

(6) The one time replacement of an existing tower that adds no more than 20 feet to the overall height of the existing tower.

B. Notice of Decision

(1) The City shall issue a written decision approving or denying an application within forty-five (45) days in the case of requests involving applications for collocations and within 150 days in case of other Zoning Compliance Certificates, each as measured from the time the application is deemed complete. An application for collocation shall be deemed complete unless the City provides written notice to the applicant within forty-five (days) of submission, or within some other mutually agreed upon timeframe.

(2) For purposes of the Land Development Code, collocations are defined as the installation of new wireless telecommunication facilities / apparatuses on previously approved structures.

C. Review Criteria. The following requirements/standards shall be used in conducting an administrative review of alternative tower facilities proposed under this subsection:

(1) Screening. Any additional buildings or equipment shall be screened in accordance with Sec. 9.14.

(2) Inventory of Existing Sites. Each applicant for approval of an antenna and/or a tower shall provide to the Planning Director an inventory of its existing antennas and towers that are either within the Hickory Regional Planning Area or within one-half mile of the border thereof, including specific information about the location, height, and design of each tower

or antenna. This information shall be used only for those purposes authorized by G.S. § 160A-400.52(c) and other applicable statutes. It shall not be used to evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site.

Applicants are encouraged to submit an inventory of potential future tower sites within the Hickory Regional Planning Area. The Planning Director may share such information with other applicants applying for administrative approvals or special use permits under this Land Development Code or other organizations seeking to locate towers or antennas within the jurisdiction of the governing authority, provided, however, that the Planning Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(3) Visual Impact. Each applicant for approval of an antenna and/or tower shall demonstrate that they are using the least visually obtrusive technology available to minimize the visual impact of the structure on surrounding properties. Where the Planning Director finds that the least visually obtrusive technology available is not being used, or that the proposed location is not designed to minimize the visual impact on surrounding properties the Planning Director shall require a consideration of the application as a Special Use Permit as described below.

6.2.24 Wireless Telecommunication Facilities, New Towers

A. Purpose. The purpose of this subsection and is to establish general standards for the siting of towers and antennas. The goals of this subsection and the subsection addressing alternative tower structures are to:

(1) Encourage the location of towers in nonresidential/non-historical areas and minimize the total number of towers throughout the community;

(2) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;

(3) Strongly encourage the joint use of new and existing tower sites;

(4) Encourage users of towers and antennas to locate them in areas where adverse impacts on the community are minimized; and

(5) Encourage users of towers and antennas to configure them in a way that minimizes their adverse visual impact.

B. Alternatives to New Towers. Communication companies are encouraged to locate telecommunication antennae on or in structures other than a tower. Such structures may include church steeples, transmission line towers, utility/light poles, water towers, etc. Where such facilities are not available, co-location of facilities is encouraged. (See the Alternative Tower Structure regulations of Sec. 6.2.23.)

C. Administrative Approval in Commercial and Industrial Districts. The Planning Director shall be authorized to approve towers or antennas, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or commercial zoning district. Such towers shall be set back from any existing off-site residence or

previously platted residential lot lines a distance equal to the height of the tower. Engineering certification shall be submitted that states the structure's construction will cause the tower to collapse inward so that in the event of collapse, no damage to structures on adjacent zoning lots will result. Towers in commercial and industrial zoning districts shall be subject to the following Special Use Criteria of Section 6.2.24E: (2), (3), (4), (5), (6), (8), (10), (11), (12) and (14).

D. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses on an industrial or commercial zoned lot. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations including, but not limited to, setback requirements, lot size and coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this subsection shall not be deemed to constitute the expansion of a nonconforming use or structure.

E. Special Use Criteria. The following criteria shall be used in deciding whether to approve the siting of new towers that require Special Use approval:

(1) Evidence that the applicant has investigated the reasonable feasibility of collocating new antennas and equipment on an existing structure or structures within the applicant’s search ring. Collocation on an existing structure is not feasible if the applicant demonstrates that collocation is technically or commercially impractical or the owner of a tower is unwilling to enter into a contract for such use at fair market value. Such evidence shall consist of:

(a) Copies of letters sent to owners of all existing towers within a one-mile radius of the proposed site, requesting the following information:

i. tower height;

ii. existing and planned tower users;

iii. whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and

iv. if the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be structurally strengthened or whether the antennas transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower

(b) A copy of all responses within 30 days from the mailing date of the letter required by subsection (a).

(c) A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.

(d) A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.

(2) Buffering and screening of the site shall be installed in accordance with Sec. 9.14 In order to provide spatial separation and create visual block

from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing. Ground buildings located in a residential district may be located outside the buffered area if they are constructed so the exterior appearance of the building has the appearance of a residential dwelling, including pitched roof and frame or brick veneer construction. The applicant shall submit scaled elevations of such buildings to assist in the evaluation of compliance with this standard. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection.

(3) All roof mounted antenna and equipment located on a building in the C-1, NC, CC-1, and CC-2 zoning districts shall be screened from view.

(4) The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least 8 feet in height unless the tower and all guy anchors are mounted entirely on a building over eight feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection.

(5) No outside storage shall be allowed on any telecommunication facility site.

(6) Associated buildings located in any residential district shall not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.

(7) The telecommunications tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.

(8) The minimum lot size requirement shall be that of the underlying zoning district, provided that larger minimum lot sizes may be required to comply with applicable setback standards.

(9) The color of the tower shall be neutral, except to the extent required by Federal law, so as to minimize its visual impact.

(10) No commercial advertising shall be allowed on the tower or its related facilities.

(11) The base of the tower shall be set back from all adjacent property lines one foot for each foot in height. This setback may be reduced by the Planning Commission upon a finding that failure to grant a setback reduction would have the effect of prohibiting the provision of personal wireless service, that the reduction serves the general intent and purpose of this Land Development Code and the adopted Land Development Plan, and that the reduction will not substantially interfere with or injure the rights of others whose property would be affected by the reduced setback. To encourage shared use of towers, applications for towers which will operate with more than one user immediately upon completion may have a 10% reduction in the required setbacks. Also, to encourage the construction of monopole structures, monopole towers may have a 20% reduction in the required setbacks. To encourage location of towers in forested areas with a minimum depth of 65 feet, the

tower may have a 20% reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district Said setback reductions shall only be allowed upon a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse, no damage to structures on adjacent zoning lots will result.

(12) Notice shall be provided to the Planning Director when the tower is placed out of service. Towers that are not used for a period of 6 months or more shall be removed by the owner within 120 days of receipt by the City of notification to that effect.

F. Notice of Decision. Notice of permitting decisions shall be made in accordance with subsection 6.22(b).

Sec. 6.3 Accessory Uses

6.3.1 Accessory Structures; General Regulations

A. Accessory structures shall be subject to all applicable regulations of this Land Development Code unless otherwise expressly stated herein.

B. Accessory structures shall not be erected in any required front setback, provided that fences up to 4 feet in height shall be allowed within required setbacks.

C. Accessory structures shall not be erected in any required side setbacks, provided that fences up to 8 feet in height shall be allowed within required side setbacks.

D. Accessory structures shall not be erected in rear yard setbacks, provided that fences up to 8 feet in height shall be allowed in rear setbacks.

E. Accessory structures shall not exceed height standards for accessory structures Sec. 7.1.

F. Mechanical structures such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed in front setbacks. They may be allowed in side and rear setbacks if less than 48 inches high. .

6.3.2 Accessory Dwelling Units *(TA 11-01 & TA 14-03)*

A. Accessory dwelling units shall be located on a lot that complies with the minimum area and width requirements of the zoning district in which it is located.

B. Accessory dwelling units shall have a separate means of access, meeting Building Code requirements, from outside the building.

C. The accessory dwelling unit shall be no larger than 25% of the gross floor area of the principal dwelling unit.

D. One accessory dwelling unit is permitted per lot as an accessory to a detached single family residence.

E. Detached accessory dwelling units may be constructed in side and rear yards in accordance with Sec. 7.1. In no instance shall a detached accessory dwelling unit be constructed between the primary dwelling unit and any adjacent street.

6.3.3 Accessory Structures, Portable

Portable accessory structures are items such as greenhouses, storage buildings (not for motor vehicles), and sheds may be located within the required rear setback in all residential districts provided the following standards are met:

A. The structure shall be of the portable type, used exclusively for storage, and no mechanical equipment such as, but not limited to, heating, air conditioning, ventilating or similar equipment, power tools and similar mechanical installations, shall be operated within or attached thereto.

B. Only one portable storage structure shall be allowed within the rear setback per lot.

C. Such structure may have a horizontal dimension not exceeding 12 feet and shall have no other dimension exceeding 10 feet.

D. The structure shall be properly anchored.

E. "Portable" shall mean without a permanent foundation and capable of being moved intact.

6.3.4 Home Occupations

A. General. A home occupation is an accessory use of a residential dwelling unit that constitutes, in whole or in part, the livelihood of a person living in the dwelling unit. Home occupations shall be subject to the following limitations:

B. The principal person providing the business or service resides in the dwelling on the premises.

C. The home occupation employs no more than one (1) person who does not reside on the premises.

D. The home occupation causes no change in the external appearance of the existing buildings and structures on the property.

E. Any commercial or off-road vehicles used in connection with the home occupation are located entirely within an enclosed building.

F. All storage of goods, equipment, or vehicles associated with the home occupation must be located entirely within enclosed buildings.

G. There shall be no advertising devices or other signs of the home occupation visible from outside the dwelling or accessory building.

H. The use shall not generate traffic, parking, sewage or water use in excess of that which is normal in a residential district.

I. No additional parking areas, other than driveways, shall be located in the front setback.

J. The business or service is located within the dwelling or an associated accessory building, and does not exceed twenty-five (25) percent of the combined floor area of the structures or two hundred fifty (250) square feet, whichever is less.

K. The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

L. If the home occupation is associated with food preparation or catering, the applicant must show proof of compliance with all County environmental and health regulations and NC State Building Code regulations.

M. Repair of automobiles is not permitted as a home occupation.

6.3.5 Open Storage, Accessory

A. No open storage shall be allowed within any front yard or corner yard or within any yard abutting a residentially zoned property.

B. Open storage areas as an accessory use shall be screened from view of any major and/or minor transportation plan roadway as shown on the Hickory By Choice Future Land Use and Transportation Plan Map and from all residentially zoned land through the installation of a minimum 6 foot tall solid fence wall, vinyl slats (90% opaque) or dense evergreen landscaping. Dense evergreen landscaping shall be used to the maximum extent practicable.

C. Waiver of Open Storage Screening Requirements, Accessory Use

The Hickory City Council hereby grants the Director of Planning and Community Development the authority to waive the open storage screening requirements upon his/her determination 1) the strict enforcement on the open storage screening standards will jeopardize the existence of a business, or 2) the strict enforcement of the open storage screening standards cannot be achieved without moving the business.

6.3.6 Parking of Commercial and Recreational Vehicles and Trailers

A. Recreational Vehicles

An owner of a recreational vehicle, boat, or trailer may park or store such vehicles on their private residential property subject to the following limitations:

(1) At no time shall such vehicles be occupied or used for living, sleeping or housekeeping purposes.

(2) Parking is permitted anywhere on a lot for loading and unloading purposes for a period not exceeding 24 hours. When not loading or unloading, such vehicles shall not be parked in a front or street corner yard.

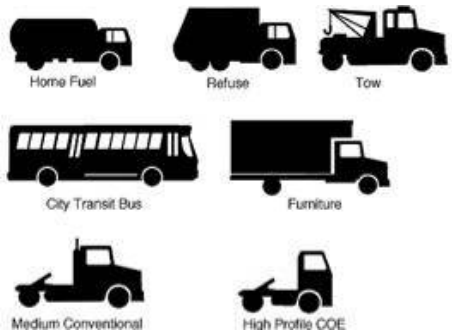
(3) At no time shall such vehicles be permanently connected to any utility service.

(4) At no time shall there be more than two (2) such vehicles or trailers stored on the property at any one time for a period longer than thirty (30) days; except where such vehicles are located entirely within an enclosed structure that complies with the regulatory requirements for the applicable zoning district.

B. Commercial Vehicles

The parking of any commercial vehicle or trailer with a gross weight of greater than 26,000 pounds or a length of greater than 25 feet shall not be permitted on any lot in any residential district except where such vehicles are located within an entirely enclosed structure that complies with the regulatory requirements for the applicable zoning district. No more than one (1) commercial vehicle shall be parked in a residential district at any time regardless of size. This requirement shall not be interpreted to prohibit vehicles from loading and unloading in any residential district.

Examples of vehicles with a gross weight more than 26,000 ponds.



6.3.7 Amateur Radio antennas

A. The occupant shall possess a valid FCC license to operate legally permitted radio transmitting and receiving equipment associated with the antenna.

B. The antenna shall be located, constructed and maintained to ensure that adjacent property is protected from danger due to collapse, overturning or falling ice.

Sec. 6.4 Temporary Uses

6.4.1 Construction Trailers as Temporary Offices

A. A contractor engaged upon a construction project for which a Building Permit has been issued by the City of Hickory may temporarily use a construction trailer for office facilities in the location where the work is being done; provided such construction trailer shall not be placed upon a public street, but only upon the property on which the building permit authorizes the construction. The construction trailer shall be removed within 30 days of completion of the work for which the permit has been issued.

B. A Zoning Compliance Permit may be issued by the Planning Director for a one-year period for the use of a manufactured home, or a modular home, as a temporary office while business properties are being remodeled, provided that it is placed upon the property for which there is a building permit issued by the City of Hickory for the remodeling. The permit shall be for a period of one year or until the remodeling is completed, whichever is the shorter period. The permit may be renewed after the expiration of the 1-year period provided the building permit remains active.

6.4.2 Model Dwelling Units

A. In any residential district, the developers, builders or their agents may operate three model dwelling units as a sales office for the specific project under construction, subject to the following restrictions:

(1) The model dwelling unit shall meet all applicable lot size and setback standards of the underlying zoning district.

(2) Signs shall not be illuminated.

(3) The model dwelling unit shall not be used for any business activity other than showing and sales.

(4) At least 5 off-street parking spaces shall be provided on the same lot as the model dwelling unit or on a contiguous lot within the specific project.

(5) The model dwelling unit shall be discontinued when the specific residential project is sold out and shall comply with regulations generally applicable within the district.

(6) The model dwelling unit shall not be approved for occupancy unless the site conditions and access are free from hazards to the public.

B. Model dwelling units may be erected or displayed in districts which exclude residential uses, provided that such models shall not be used for residential purposes, but only for display as a means to sell homes in districts in which they are permitted and provided that all other requirements of the district in which the model dwelling unit is erected shall be met.

6.4.3 Garage, yard, tag, patio, and apartment sales

Garage, yard, tag, patio and apartment sales are specifically permitted as an accessory use in all residential districts. Such sales shall be limited to 6 during each 12-month period, for a maximum duration of 2 days per sale, 60 days apart. No zoning compliance permit is required for these sales.

6.4.4 Portable On-Site Storage

Portable on-site storage units are permitted in all zoning districts subject to the following standards:

A. General

No unit may be placed on a zoning lot that does not contain a principal structure.

B. Number

No more than one (1) portable on-site storage unit may be placed on any zoning lot at a time.

C. Location

(1) Single-Family Residences

The unit shall be located in the driveway or in the side or rear yard at least 5 feet from any property line.

(2) All Other Properties

The unit shall be located in an on-site vehicular use area and shall not obstruct any drive aisle or block any required parking space.

D. Permitted Timeframe

(1) A temporary use permit for a portable on-site storage unit shall be limited to a maximum of 30 days. Such permit may be renewed one time for a maximum of 30 days provided that renewal occurs prior to expiration of the original temporary use permit. Only one such permit may be issued per calendar year.

(2) If the building site is listed as the job address for an active building permit issued by the Catawba County Building Services Division, a unit may be placed on the property, subject to the location standards above for the duration of the building permit.

6.4.5 Repair of Automobiles or Motor Vehicles in Residential Districts

The repair of any automobile or motor vehicle in a residential zoning district shall be subject to the standards of this subsection.

A. Only minor repairs and maintenance may be performed which, for purposes of this subsection, are defined as the changing and replenishment of fluid levels, such as hydraulic fluid, windshield washer fluid, and lubricating oil, the

replacement of sparkplugs, ignition points, the rotation of tires and the checking of adequate pressure, and the replacement of drive belts and hydraulic lines.

B. Any other repairs on a motor vehicle or automobile shall be restricted to totally enclosed spaces and only accomplished on privately registered vehicles having current State of North Carolina license plates, or motor vehicles designated by the State of North Carolina as qualifying for an antique or horseless carriage designation.

C. The automobile or motor vehicle referred to in (a) and (b) above shall be registered showing the address at which the limited repairs and maintenance or other repairs are to be performed.

6.4.6 Temporary Health Care Structures (*TA 14-03)*

A temporary health care structure is a transportable residential structures, providing and environment facilitating a caregiver's provision of care for a mentally or physically impaired person.

A. Definitions

(1) Activities of Daily Living: Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(2) Caregiver: An individual 18 years of age or older who provides care for a mentally or physically impaired person, and is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

(3) First or Second Degree Relative: A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, niece, and includes half, step, and in-law relationships.

(4) Mentally or Physically Impaired Person: A person who is a resident of the State of North Carolina, and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in the State of North Carolina.

(5) Temporary health Care Structure: A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person which:

a. Is primarily assembled at a location other than the site of installation;
b. Is limited to one occupant who shall be the mentally or physically impaired person;
c. Has no more than 300 gross square feet of floor area; and
d. Complies with applicable provisions of the State Building Code and NCGS 143-139.1(b)

B. Where Permitted
Temporary health care structures shall be permitted as temporary accessory dwelling units within residential zoning districts.

C. Location, Size and Set-up

(1) Temporary health care structures must meet the setback standards for primary structures as outlined in Section 7.1 of this Land Development Code.

(2) Temporary health care structures may not exceed three hundred (300) gross square feet in area, and must comply with applicable provision of the State Building Code

(3) A permanent foundation shall not be required for such structures.

D. General Standards

(1) Temporary health care structures may be used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver's residence; provided the structure is used to provide care for the mentally or physically impaired person.

(2) Temporary health care structures may be used by an individual who is the named legal guardian of the mentally or physically impaired person on the property of the residence of the legal guardian; provided the structure is used to provide care for the mentally or physically impaired person.

(3) Only one (1) temporary health care structure shall be allowed on a lot or parcel of land.

(4) All Temporary health care structures shall be connected to public water and sewer services, as well as
Electric utilities.

(5) Any temporary health care structure installed pursuant to this section shall be removed within sixty (60) days in which the mentally or physically impaired person is no longer in receiving or is no longer in need of the assistance provided for in this section. If the temporary health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within sixty (60) days of its removal, as applicable.

E. Permitting Procedures and Inspections

(1) Applications for temporary health care structures must be accompanied by documentation the caregiver's or individuals relationship within the mentally or physically impaired person, and a written certification from a physician licensed in the State of North Carolina indicating the individual receiving care is a mentally or physically impaired person.

(2) Annual inspections may be required as outlined in NCGS 160A-385.5(e).

Sec. 7.1 Residential District Standards *(TA 12-01 & TA 14-03)*

All development in residential zoning districts shall be subject to the following Intensity, Dimensional and Design Standards. These standards shall not be interpreted as a "guarantee" of development intensity. Other factors and requirements may limit development intensity more than these standards.

Residential Property Standards	R-1	R-2	R-3	R-4
Minimum Lot Area				
Single-Family Detached (sq. ft.)	21,780 [1]	10,890 [1]	7,260 [1]	3,600 [1]
Single-Family Attached (sq. ft.)	N/A	N/A	7,260 [1]	3,600 [1]
Duplex (sq. ft.)	N/A	N/A	7,260 [1]	2,500 [1]
Multi-Family (sq. ft.) per dwelling unit	N/A	N/A	4,300 [1][2]	2,500 [1]
Density- Maximum (per acre)	2	4	8	20
Minimum Lot Width/ Frontage (ft)	100	80	60[3]	40
Primary Structure				
Minimum Yard Setbacks				
Front Yard [4] (ft)	40	20	20	20
Rear Yard (ft)	25	25	25	10
Interior Side Yard (ft)	10	10	5	5
Street Side Yard (ft)	20	15	15	5
Maximum Height (ft)	35	35	35	50
Accessory Dwelling Units				
Minimum Yard Setbacks				
Front Yard (ft)	50	30	30	30
Rear Yard (ft)	15	15	15	10
Interior Side Yard (ft)	10	10	5	5
Street Side Yard (ft)	20	20	15	5
Maximum Height (ft)	20	20	20	20
Accessory Structure [5]				
Minimum Yard Setbacks				
Front Yard (ft)	50	30	30	30
Rear Yard (ft)	5	5	5	5
Interior Side Yard (ft)	5	5	5	5
Street Side Yard (ft)	20	15	15	5
Maximum Height (ft) [6]	15	15	15	15

[1] The Department of Health is authorized to require larger minimum lot area when public water and wastewater service is not available or utilized.

[2] Minimum lot size may be reduced to two thousand five hundred square feet for attached housing development only.

[3] Minimum lot width and frontage may be reduced to forty feet for attached housing development only.

[4] See 7.4.5 for setbacks regarding the use of front yard averaging.

[5] No individual accessory structure shall exceed 50 percent of the floor area of the principal dwelling unit on the lot. The total of all accessory structures on a zoning lot shall not exceed 2,000 square feet. All accessory structures over 500 square feet shall meet the primary structure setback requirements. *(TA 11-01)*

[6] Accessory structures may exceed 15 feet in height, up to the maximum permitted height for the zoning district, provided that the accessory structure meets the primary structure setbacks, *(TA 11-01)*

Sec. 7.2 Multiple Family Development Standards

The standards contained within the section shall apply to multiple family development projects containing 3 or more units.

7.2.1 Parking and Loading Areas

Off-street parking areas shall be subject to all parking area design, construction and landscaping standards of the Land Development Code and the following requirements.

A. No more than twenty percent of the land area between the front lot line and the front of the building may be paved or used for vehicle areas. In the case of corner lots, no more than twenty percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas.

B. Driveway coverage may exceed the size limitations above when the subject property is located on a principal arterial and the increase is due to inadequate maneuvering areas for the safe exit of vehicles from the site.

C. No driveway providing access to parking or loading areas may exceed 24 feet in width.

7.2.2 Pedestrian Access

A. Purpose

The pedestrian access standards of this section encourage the creation of a network of safe, consistent, and convenient linkages for pedestrians, including locating building entrances adjacent to the sidewalk.

B. Pedestrian Connections

(1) A comprehensive system of walkways shall link all site entrances, building entries, parking facilities, and common outdoor spaces with the public sidewalk.

(2) Buildings not directly adjacent to the public sidewalk shall have clearly defined pedestrian connections between the public sidewalk and building entrances.

(3) Pedestrian connections shall be reinforced with pedestrian scale lighting, bollard lighting, landscaping, accent lighting, or a combination of the foregoing to aid in pedestrian wayfinding. Such lighting shall be subject to the lighting standards of Sec. 9.8

C. Materials

(1) The pedestrian circulation system must be hard surfaced, and be at least 5 feet wide. The type and nature of the materials used for pedestrian walkways shall be consistent within a development.

(2) Where the pedestrian system crosses driveways, parking areas, and loading areas, the system must be clearly identifiable through the use of

two or more of the following (except where walkways cross vehicular travel lanes):

(a) Raised walkway, if a raised path is used, the ends of the raised portions must be equipped with ADA-compliant curb ramps.

(b) Special railing, bollards or other architectural features that accent the walkway between the parking bays

(c) Special paving, such as concrete or unit pavers in an asphalt area

(d) Continuous landscape area, a minimum of three feet wide along at least one side of the walkway. This landscaping may be included as part of the landscaping requirements.

7.2.3 Articulation and Details

A. Purpose

The purpose of the articulation and details standards for multi-family housing is to avoid building forms that seem bulky and institutional and interrupt the character of single-family development.

B. Articulation and Detail Standards

(1) Buildings shall include articulation along the facades that face streets. Flat blank walls are not permitted.

(2) Horizontal facades greater than thirty feet shall be articulated in to smaller units, reminiscent of single-family residential scale of the neighborhood. At least four of the following methods should be used:

(a) Varied building heights

(b) Different materials on the first floor

(c) Different window types

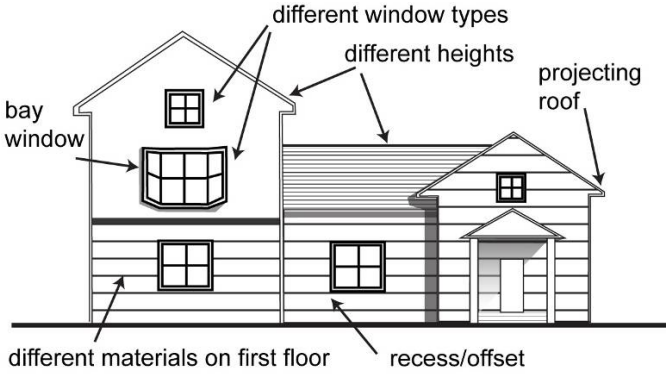
(d) Different colors

(e) Offsets

(f) Projecting roofs (minimum of twelve inches)

(g) Recesses

(h) Varied roof forms or orientation



Articulation with massing and roof form

7.2.4 Incompatible Development Setbacks

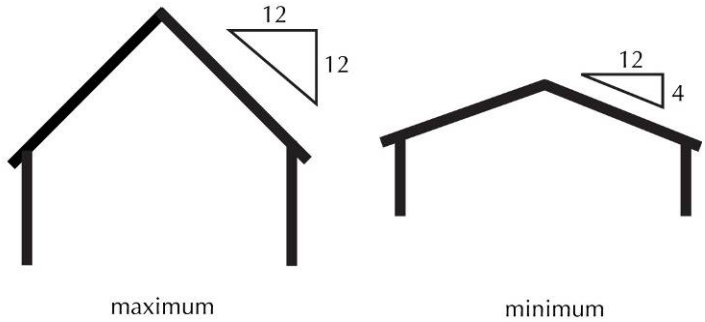
Where multiple family developments abuts existing single-family development, setbacks shall be increased 10 feet per floor for each floor of difference between the two development types. The total setback shall be determined by subtracting the floors of the single-family development from the floors of the multiple family developments and multiplying the result by 10 feet and adding the result to the minimum setback requirement. (e.g. where a three story multiple family structure abuts a single story single-family structures the setback along the abutting property line would be increase by 20 feet.) If a multiple family development abuts two or more single-family dwellings on one side, the single-family dwelling having the lowest height shall be used for determining compliance with this subsection.

7.2.5 Pitched Roofs

A. For the first 80 feet adjoining single-family use, multiple family structures shall incorporate pitched roof forms have slopes between 4:12 and 12:12.

B. Gables facing the street are encouraged

C. Dormers should be used to break-up long lengths of roof.



sloped roof

7.2.6 Building Orientation

A. Primary building entries shall be clearly identifiable and visible from the street with well defined pedestrian routes to building entries. Pedestrian routes shall be consistent with the standards for pedestrian connections established above. Primary entries shall include windows, a covered porch or stoop and other architectural features consistent with the other sides of the building.

B. In the case of double frontage lots the rear of the building shall receive the same architectural treatment as the front or shall be treated as a parking area and screened as provided above.

C. Windows shall be provided on facades facing streets and shall comprise at least fifteen percent of the façade area.

7.2.7 Garbage and Recycling Areas

A. All exterior garbage cans, garbage collection areas, and recycling areas must be screened from the street and any adjacent properties. Trash receptacles for pedestrian use are exempt. Screening must comply with the screening requirements in Sec. 9.7.

B. All multiple family developments consisting of more than 10 units and not otherwise receiving recyclable collection services shall provide a recycling and storage area in accordance with the following standards:

(1) Access: Access to the facility shall be paved and shall be designed to accommodate service vehicles.

(2) Setbacks: All recycling facilities shall be setback a minimum of 25 feet from all residentially zoned or used property

(3) Area: The size of the area for recycling shall be determined by the City Engineer.

7.2.8 Multiple Family Recreation and Open Space

A. Purpose

The regulations contained within this subsection are intended to provide for the dedication or reservation of recreation or open space areas serving residents of the immediate neighborhood within the multi-family development or, alternatively, for the provision of funds for the acquisition or development of recreation or open space sites serving residents of the multi-family development or more than one multi-family development or subdivision within the immediate Community Service District.

B. Applicability; Community Service Districts Established

The regulations of this section shall apply within Community Service Districts. Community Service Districts are established as delineated on the Community Service Areas Map, which is adopted as part of this Land Development Code and may be amended in the same manner as any other portion hereof.

C. Land Dedication and Suitability Criteria

The Planning Director shall be authorized to reject or accept offers of land dedication considering the following criteria:

(1) it shall not be encumbered with any substantial structure;

(2) it shall not be devoted to use as a roadway, parking area or sidewalk;

(3) it shall be left in its natural or undisturbed state if wooded, or, if disturbed shall be properly vegetated and landscaped to create an area that is capable of being used and enjoyed for informal and unstructured recreation;

(4) it shall be legally and practically accessible to the residents of the development or to the general public;

(5) it shall be topographically and physically suitable for the purposes intended as determined by the Parks and Recreation Director or the Commission;

(6) at least one-half of the total dedicated land shall be located outside areas of special flood hazard, wetlands, lakes, or other water bodies;

(7) it shall form a single parcel of land except where the Planning Director determines that multiple parcels would be in the interest of the public. In such a case of multiple parcels the Planning Director may require connection strips or paths with widths adequate to facilitate pedestrian connection between the parcels.

D. Land Dedication Requirements

Unless otherwise expressly stated herein, developments with ten or more dwelling units shall reserve for dedication to the City of Hickory 500 square feet

of land area per dwelling, based on the zoning designation of the property or other limitations on density that are enforceable by the City.

E. Fees In-Lieu

(1) Where lands suitable in scale, character or location are not available within the development as determined by the City, or at the election of the developer, the developer may make provisions to pay to the City of Hickory a fee equal to the current tax valuation of the property in-lieu of dedication.

(2) If the value cannot be agreed upon by the developer and the City of Hickory, an appraisal board consisting of one appraiser selected by the City of Hickory at its own expense, one appraiser selected by the developer at their own expense, and a third selected by the other two for which the expense shall be shared, shall determine the value. If the three appraisers selected are unable to unanimously agree upon a value, then value will be determined by taking the average of the three values set by each appraiser, which amount shall then be binding on all parties.

F. Combination of Alternatives

The City Council may permit a combination of the land dedication or fees in-lieu to satisfy the requirements of this section when it determines that the combination is in the best interests of the citizens of the area to be served..

G. Use of Dedicated Land

If land dedication is accepted, such lands shall be used only for:

(1) parks, playgrounds, play fields, neighborhood or community recreation centers, nature parks, fitness trails, or bikeways;

(2) historic, cultural and archeological preservation where at least 75 percent of the site is usable for one of the purposes in 7.2.8 (g) (1) above; or

(3) Other uses not inconsistent with the stated offer of dedication.

(4) The developer shall state in the offer of dedication or reservation the uses to which the land may be placed.

H. Use of In-Lieu Payments

If in-lieu payments are made, such funds shall be deposited in the appropriate community service area account and expended only for the purchase of lands for the purposes indicated above, or for the development of park, recreation or open space sites; serving the development or more than one development in the immediate area, and only within the community service area in which the development is located.

I. Alternative Compliance

As an alternative to land dedication, fees in-lieu, or a combination thereof, developers of planned residential developments may provide equivalent recreation or open space facilities for common use and enjoyment under neighborhood or community association ownership or management, subject to the following findings and conditions:

(1) The Planning and Development Department shall analyze the character, location and scale of the proposed facilities to determine whether they are in accordance with all regulations and standards officially adopted and in effect; and

(2) The Staff Attorney shall provide an opinion as to the legal sufficiency of devices for assuming that the lands shall be held, improved and maintained for the purposes set forth in perpetuity

7.2.9 Fire Protection

Fire protection shall comply with the requirements of Section 9.14, Fire Protection, of this Land Development Code.

7.2.10 Alternative Standards

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4.

Sec. 7.3 Nonresidential District Standards *(TA 11-01, 14-01 & 16-01)*

All development in nonresidential zoning districts shall be subject to the following Intensity, Dimensional and Design Standards. These standards shall not be interpreted as a "guarantee" of development intensity. Other factors and requirements may limit development intensity more than these standards.

	NC	CC-1	CC-2	OI	C-1	C-2	C-3	IND
Min. Lot Area (sq ft)	2,500	2,500	10,000	10,000	2,500	15,000	20,000	15,000
Min. Lot Width (sq ft)	50	50	50	50	50	50	50	50
Max. Residential Density (units per Acre)	30	30	30	30	50	30	30	N/A
Max. Non-Residential Density (Floor Area Ratio)	.85	.85	.85	.85	3	.85	.85	N/A
Principal Structures – Minimum Yard / Setbacks (ft)								
Front (street)	10	10	20	20	0	20	20	30
Side Corner	10	10	15	15	0	15	15	15
Side	10	10	10	10	0	10	10	10
Rear	20	20	20	20	0	20	20	20
Side/Rear (adjacent to a residential district)	20/20	15/15	15/20	20/20	20/20	20/20	35/35	35/35
Max. Building Height (ft)	40[1]	55[1]	40	50[3]	80	80	80	80
Min. Building Height (ft)	NA	NA	NA	NA	30[2]	NA	NA	NA
Accessory Structures – Minimum Yard /Setbacks (ft)[4]								
Front (street)	10	10	20	20	0 [5]	20	20	30
Side Corner	10	10	20	20	0 [5]	15	15	15
Side	5	5	5	5	0	5	5	5
Rear	5	5	5	5	0	5	5	5
Side/Rear (adjacent to a residential district)	20/20	15/15	15/20	20/20	20/20	20/20	35/35	35/35
Max. Building Height (ft)[6]	15	15	15	15	15	15	15	15

[1] For all development within 150 feet of R-1 or R-2 district, the following additional standards shall apply to ensure compatibility: The maximum height for structures at the

boundary of the R-1 or R-2 zone is 30 feet. An additional one foot of building height is granted for every two feet of horizontal distance from the R-1 or R-2 zone boundary.

[2] Buildings in C-1 Districts shall be no less than 2 stories in height.

[3] Increased building height, up to 80 feet, may be approved through the issuance of a Special Use Permit.

[4] No individual accessory structure shall exceed 50 percent of the floor area of the principal structure on the lot. The total of all accessory structures on a zoning lot shall not exceed 2,000 square feet. All accessory structures over 500 square feet shall meet the primary structure setback requirements.

[5] No accessory structure shall be erected or placed between the primary structure and any adjacent street or right-of-way.

[6] Accessory structures may exceed 15 feet in height, up to the maximum permitted height for the zoning district, provided that the accessory structure meets the primary structure setbacks.

Sec. 7.4 Measurements, Computations and Exceptions

7.4.1 Lot Area

A. Measurement. The area of a lot shall include the total horizontal surface area within the lot's boundaries, not including submerged lands, roadways or rights-of-way.

B. Multiple Zoning Districts. If a zoning lot includes different zoning districts, the minimum lot area requirements for each district shall be met.

7.4.2 Lot Width

Minimum lot width shall be measured between side lot lines along a line that is parallel to the street lot line or its chord. Measurements of lot width shall be made at the minimum street setback line. When a lot has more than one street setback line, lot width shall be measured along the street setback line with the narrower width. In all cases, the width between side lot lines at their intersection with street lot lines shall be at least 25 feet.

7.4.3 Density

A. Residential

(1) Measurement. Maximum density refers to the maximum number of dwelling units allowed per acre of site area, after subtracting land area in floodplains, wetlands, water bodies and public rights-of-way from the gross site area. Roadways or rights of way provided by the owner or developer of the lot may be included with the zoning lot for the purposes of calculating density, but may not be included in calculating compliance with the minimum lot area for individual lots.

(2) Calculation. To calculate the number of dwelling units allowed on a parcel, first subtract from the gross site area the total area of all floodplains, wetlands, water bodies and public rights-of-way, then multiply the resulting figure by the maximum density standard of the zoning district.

(3) Rounding. When density calculations result in fractions, fractions of 0.5 (½) or greater shall be rounded to the next highest whole number; fractions of less than 0.5 shall be rounded down to the next lowest whole number.

B. Non-Residential

(1) Measurement. Maximum density refers to the maximum amount of floor area allowed per acre of a development site. For non-residential development, maximum floor area is expressed by floor area ratio (FAR).

(2) Calculation. To calculate the floor area allowed on a parcel, the total acreage is multiplied by the maximum floor area ratio of the zoning district.

(3) Rounding. When density calculations result in fractions, fractions of 0.5 (½) or greater shall be rounded to the next highest whole number; fractions of less than 0.5 shall be rounded down to the next lowest whole number.

7.4.4 Setbacks

A. Measurements. Setbacks refer to the unobstructed, unoccupied open area between the furthermost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall be unobstructed from the ground to the sky except as specified in this subsection.

B. Street Setbacks. Street setbacks shall extend the full width of a lot and shall be measured from the street lot line.

C. Side Setbacks. Side setbacks shall extend from the required street setback line to the required rear setback line and be measured from the side lot line. If no street or rear setback is required, the required setback area shall run to the opposite lot line. Side setbacks on through lots shall run the full length between street lot lines.

D. Rear Setbacks. Rear setbacks shall extend the full width of the lot and be measured from the rear lot line. If a corner lot has more than 4 sides, the yards along the interior lot lines that do not intersect a street line shall be considered rear yards.

E. Special Yards. A special yard, for purposes of these regulations, shall be construed as a yard other than adjacent to a street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term, "side yard" nor the term, "rear yard", as generally determined, defined or applied with respect to regular lots, fits the circumstances of the case. In such instances, the special yard shall be considered a rear yard unless the Planning Director determines that side yard requirements of the district shall apply because of the relationship of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation of structures and buildable areas thereof.

F. Waterfront Yards

(1) Waterfront yards are yards adjacent to waterways that are 50 feet or more in average width adjacent to the yard. Lots having one or more such waterfront yards shall be considered waterfront lots.

(2) Where a waterfront yard is required on a lot, the requirement shall be construed as replacing yard requirements otherwise applicable to the portion of the lot involved.

(3) Depth of required waterfront yards shall be measured perpendicular to the actual waterfront line, provided, however, that in the case of irregularities in such line, such projections, curves or chords may be used as are reasonably necessary to achieve a regular outer boundary for the yard, as well as reasonable in relation to the general pattern of waterfront yards on adjoining lots.

(4) The minimum required depth for waterfront yards shall be 35 feet, provided that the lot width may be measured at the rear setback line. Boathouses, gazebos, docks, pier structures, davits and similar structures may occupy up to 30% of the required waterfront yard.

G. Projections/Encroachments. The following features may project in required setbacks to the extent indicated.

(1) Architectural features, such as, but not limited to, cornices, chimneys, eaves, stoops and gutters, may project no more than 3 feet into the required street setback, 5 feet into the required rear setback and 2 feet into the required side setback.

(2) Mechanical equipment, such as air conditioning units, heat pumps, heating equipment, solar panels, and similar installations, may not project into the required street setback, but may project 5 feet into the required rear setback and 2 feet into the required side setback.

(3) Structural or mechanical devices added to make such structures accessible to physically disadvantaged persons may encroach into required setbacks and buffers.

(4) Unenclosed porches and decks may encroach into the required front and/or rear yard for a distance of not more than 20% of the required setback. For the purpose of this section, a porch or deck enclosed in wire screen, or similar material, shall not be considered an enclosed porch or deck.

7.4.5 Setback Averaging

Where the average of the street setbacks for all lots located within 50 feet of either side of a lot is less than the minimum required front setback, the required setback line may be reduced to this lesser average depth, but in no case, to less than 10 feet. For the purpose of computing such average, a vacant lot shall be considered as having the minimum street setback required for the zoning district.

7.4.6 Setbacks along Thoroughfares.

A. The minimum street setbacks for each zoning district that abuts a thoroughfare shown in the Adopted Thoroughfare Plan shall be measured from the existing right of way line for each classification of thoroughfare as follows:

Thoroughfare Classification	Additional Setback
Existing street recommended for securing additional right-of-way of 10 feet or less	10 feet
Existing street recommended for securing additional right-of-way more than 10 feet	One-half the difference between the existing and recommended rights-of-way, but not less than 10 feet
Not recommended for securing additional right-of-way	No additional setback required
Note: Where rights-of-way for street widening have been acquired, setbacks shall be measured from the right-of-way line that has been established.	

B. Use of Additional Setback. The additional setback adjacent to the existing right of way may not be developed for parking, but may be used for fences, buffers, landscaping, signs, lighting fixtures, or other similar improvements.

C. Appeal. An affected property owner shall have the right to appeal the thoroughfare setback requirement to the Board if Adjustment by giving written notice within 10 days of receipt of a written decision of the Planning Director requiring setbacks. A

modification of the requirements necessary to retain a buildable area reasonably adapted for building construction may be granted either through a reduction or modification of the thoroughfare setback or through a reduction of the rear or street setback up to an amount equal to the thoroughfare setback, but in no case, to less than 10 feet. The Board of Adjustment may vary thoroughfare setback requirements upon a showing that all of the following criteria have been met:

(1) the peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirement;

(2) the property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted; and

(3) in balancing the public interest of enforcing the setback requirements with the interest of the owner, the grant of relief is required by considerations of justice and equity.

D. Conditions. In granting relief, the City Council may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties. The Council's decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari.

7.4.7 Building Height

A. Measurement. Building height shall be measured as the vertical distance from the mean elevation at the finished grade along the front of the structure to the highest point of the structure or to the highest point of a flat or mansard roof or to the mean height between the eaves and ridge for a pitched roof in the case of buildings.

B. Exceptions. Except as specifically provided herein, the height limitations of this Land Development Code shall not apply to any roof structures for housing elevators, stairways, tanks, ventilating fans, solar energy collectors, or similar equipment required to operate and maintain a building, provided that such structures shall not cover more than 33% of roof area or extend over 10 feet in height; nor to church spires, steeples, belfries, cupolas, domes, monuments, water towers, skylights, flag poles, vents, construction or mining cranes or draglines, or similar structures, which may be erected above the height limit, nor to fire or parapet walls provided, however, that such walls shall not extend more than 5 feet above the roof.

C. Aviation Hazards. No building or other structure, regardless of the height exceptions set forth in this subsection, shall be located in a manner or built to a height that constitutes a hazard to aviation or creates hazards to persons or property by reason of unusual exposure to aviation hazards.

D. Tall Structures. Unless expressly stated otherwise elsewhere in this Land Development Code, towers that are principal structures in themselves, such as high voltage transmission line towers, grain elevators, silos and other such agricultural uses and similar principal structures, may only exceed the height limitations established for the district wherein they are proposed for relocation following review by the Planning Commission as a Special Use Permit in accordance with Sec. 2.4. A zoning compliance permit may only be granted where the Board if Adjustment finds:

(1) That the proposed structure would not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport.

(2) That the proposed structure is consistent with the existing surrounding uses, and is compatible with the existing neighborhood development.

(3) That the proposed structure is consistent with any adopted or projected development plan for the area.

(4) That the proposed structure is not detrimental to the existing or proposed use of any neighboring property, and does not unreasonably restrict the free flow of light, sunlight and air to those properties.

Article 8 **Subdivision Design Standards**

Sec. 8.1 General

The Subdivision Design Standards contained herein are intended to provide property owners, developers, builders, and city Staff with technical guidance to provide for efficient and well planned development, to support development that is sensitive to the context in which it is built and provides the necessary infrastructure to support the project. The Land Development Permit process contained herein are intended to provide a framework under which land development can occur in a manner that is efficient, that encourages the creation of a high quality built environment, that is flexible and is predicable. The regulations contained herein shall provide policy guidance in the development and maintenance of a technical manual that shall illustrate the application of the standards contained herein.

8.1.1 Applicability

A. Unless otherwise expressly stated, the regulations of this article shall apply to all divisions of a tract or parcel of land into two or more lots, building sites or other division when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, including all divisions of land involving the dedication of a new street or a change in existing streets.

B. No subdivision shall be made, platted, or recorded for any purpose, nor shall parcels resulting from such subdivision be sold or offered for sale, unless such subdivision complies with the regulations of this article and all other applicable regulations.

C. No plat of any subdivision within such jurisdiction shall be filed or recorded by the Register of Deeds until it shall have been submitted to and approved by the City of Hickory and such approval has been entered in writing on the plat.

D. Where indicated these requirements shall also apply to development projects not requiring subdivision.

8.1.2 Exemptions

A. The following shall not be subject to the regulations of this article:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Land Development Code;

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

(3) The public acquisition, by purchase, of strips of land for the widening or opening of streets; or

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Land Development Code.

B. In interpreting paragraph (A)(1) above, the term “previously subdivided” shall mean platted and approved if such lots were created in accordance with subdivision regulations in effect at the time of their creation, or created as a result of a recorded land division prior to existence of applicable subdivision regulations.

C. In interpreting paragraphs (A)(2) and (A)(4) above, the phrase "where no street right-of-way dedication is involved" shall be construed as meaning that any such parcel shall be served by a private driveway or by an existing street that has been accepted for dedication and maintenance by the City of Hickory or the North Carolina Department of Transportation.

8.1.3 Procedures

Subdivisions and other land divisions and combinations shall be subject to the review and approval procedures of Article 2 of this Land Development Code.

8.1.4 Purposes

In addition to furthering the purposes of. Sec. 1.7, regulations of this article and the procedures of Article 2 are intended to:

A. encourage economically sound and stable development in the City and the Hickory Regional Planning Area;

B. assure the timely provision of required streets, utilities and other facilities and services to new land developments;

C. ensure adequate provision of safe and convenient pedestrian access to the site and all lots and that conflicts with traffic flow are minimized to the greatest extent possible;

D. ensure adequate provision of safe and convenient traffic access to the site and all lots and traffic flow as determined by the application of generally accepted engineering practices and as approved by the City Engineer;

E. ensure provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational and other public purposes or the provision of funds in lieu of dedication;

F. ensure, in general, the wise and timely development of new areas in harmony with the Land Development Plan and other official plans of the City of Hickory;

G. ensure accurate public records of land ownership, to facilitate land ownership transfer, the effective conduct of public and private business and the protection of private property rights;

H. ensure coordination of streets within subdivisions with other existing or planned streets or official map streets;

I. ensure appropriate shapes and sizes of blocks and lots;

J. provide land and easements for utilities and other public facilities and services; and

K. distribute population and traffic to create conditions favorable to health, safety, convenience, prosperity and general welfare.

8.1.5 Building Permits/Certificates of Occupancy Prior to Completion of Improvements

A. Building permits may be issued for construction of buildings in subdivisions prior to completion of required subdivision improvements.

(1) Up to 3 sales models may be constructed per subdivision prior to final plat approval. Prior to issuance of a certificate of occupancy all applicable property development regulations shall be complied with. One of these sales models may be used for a temporary real estate sales office if sanitary facilities are provided.

B. Certificates of Occupancy may be issued and buildings occupied only when all of the following improvements are available and as further provided below:

(1) Streets shall be passable as determined by the City Engineer for private, service and emergency vehicles under normal weather conditions provided that distance along such streets shall not exceed 1,200 feet by normal routes;

(2) Driveways shall be passable under normal weather conditions;

(3) Drainage shall be installed and operative, thus assuring that under normal weather conditions, there will be no flooding of the building site or access ways to the site;

(4) Erosion protection as provided herein shall be installed;

(5) Domestic water supply, fire protection and sanitary sewerage shall be installed and operative. Where the City provides water and sewer service, the system must be accepted for operation by the City.

C. No additional building permits or certificates of occupancy shall be issued unless all remaining required improvements are covered by a performance guarantee in accordance with this article, and the applicant accepts tort liability pending completion of all required improvements.

Sec. 8.2 Adequate Public Facilities

8.2.1 A proposed subdivision shall not exceed the city's current ability to provide adequate public facilities, including, streets, water, sewer, stormwater management, and fire services. Where it is determined by the Planning Director that such adequate public facilities are not in place, subdivisions may be required to be constructed and platted in phases, provided; however, the Planning Director may not approve a phasing plan when in his or her opinion such phasing will not provide for adequate public facilities to support any such phase or phases independent of the overall development plan. In approving phasing plans, the Planning Director may require that additional streets, water and sewer facilities or other required public facilities be constructed as part of the phase or phases in order to ensure that sufficient public facilities will be in place to support such phase or phases independent of any future development.

8.2.2 For purposes of this section, a proposed subdivision meeting the following criteria shall be deemed to have inadequate public facilities and shall be subject to remedial measures set forth in subsection 8.2.1:

A. Streets: Where it is estimated traffic generated by the subdivision will cause a roadway serving the subdivision to operate at a level of service D (LOS D) at any time of the day or night or where the estimated project traffic represents at least 10% of the traffic volume on the affected street. These requirements shall not apply, where the projected traffic volume from the project represents less than 1% of the capacity of the adjoining roadway or up to 200 trips per day whichever is greater.

B. Water: Where the project water needs would cause water pressure to fall below acceptable levels or where the configuration of the water distribution system would create unacceptable dead end conditions.

C. Sewer: Where the sewer generation from the proposed development would exceed the capacity of the existing collection system servicing the proposed development.

D. Stormwater: Where runoff from the project creates downstream flooding.

Sec. 8.3 Manual of Practice

The City Engineer shall maintain a Manual of Practice. This manual shall be a technical guide providing plans and specifications for typical subdivision infrastructure improvements including but not limited to: streets, driveways, street lighting, sidewalks, stormwater management and utility service. All development shall comply with the standards contained therein or with City Engineer approved alternatives prior to issuance of certificate of completion, certificate of occupancy or release of performance. The City Engineer may amend the Manual of Practice as required to maintain it in conformance with industry best practices.

Sec. 8.4 Lots

8.4.1 General

Lot size, width, depth, shape and orientation shall be appropriate for location within the subdivision and location of the subdivision, and for the type of development and use contemplated.

8.4.2 Lot Dimensions

A. Residential. Residential lot dimensions shall comply with the underlying zoning district regulations, subject to increases as required by the appropriate county health department for residential lots not served by public water supply and public sanitary sewerage.

B. Nonresidential. Nonresidential lot dimensions shall comply with the underlying zoning district regulations. Depth and width of lots subdivided for nonresidential purposes shall be adequate for off-street parking and service facilities required by the type of use and development anticipated. Where such lots are to be used for purposes requiring water for domestic use and sanitary sewage disposal, and where public water and/or sanitary sewage disposal is not provided, they shall also conform to the minimum area requirements set by the appropriate county health department.

8.4.3 Access to Streets

A. Each lot created in a subdivision shall have street frontage of at least 20 feet in width on a street that is either an existing public or private street or one that, upon completion of installation, can be accepted by the State of North Carolina or the City for continual maintenance. Limited access highways that provide no direct access to abutting properties shall not be considered streets for the purpose of this provision.

B. Pursuant to G.S. § 160A-375, no building permit shall be issued for and no structure shall be erected on any lot in a subdivision unless the street giving access to the lot upon which the structure is proposed to be placed:

(1) has been accepted, or opened as, or otherwise has received the legal status of, a public street prior to that time; or

(2) corresponds in its locations and lines with a street shown on a subdivision plat approved by the City of Hickory or on an official map adopted by the Planning Commission and the City Council, or with a street located and accepted by the City Council.

C. Any structure erected in violation of this section shall be deemed an unlawful structure, and the building official or other official designated by the City Council may bring appropriate action to enjoin such erection or cause the structure to be vacated or removed.

8.4.4 Double-Frontage and Reverse-Frontage Lots

Double-frontage and reverse-frontage lots shall be prohibited except when necessary to provide separation from major roadways, railroad rights-of-way or other similar features or to overcome other disadvantages of orientation or topography or to provide protection for adjacent uses. A non-access easement of at least 10 feet in width shall be provided along the line of lots abutting such features, across which there shall be no right of access. The easement shall be the maintained by the subdivider and all successors in title.

8.4.5 Side Lot Lines

Side lot lines shall be substantially perpendicular or radial to street lines unless a satisfactory lot pattern, easement pattern and area for access has otherwise been approved by the Planning Director.

8.4.6 Lot Lines and Utility Easements

Lot lines shall be so arranged with respect to utility easements as to permit efficient installation of utilities without unnecessary irregularities in alignment.

8.4.7 Suitable Building Sites

A. No subdivision shall be approved by the Planning Director unless he or she determines that each lot or parcel intended for building contains a building site:

(1) within the inner lines of required setbacks;

(2) determined by the City Engineer to be free from inundation and safely accessible from an approved street during rainfall of ten-year return frequency;

(3) with a minimum area equal to 1,200 square feet, whichever is greater;

(4) suitable for potential building use as permitted by the underlying zoning district and other applicable regulations of this Land Development Code and controlled under the provisions of ordinances and regulations adopted in conformance with the National Flood Insurance Program, and without danger from subsidence, heaving, erosion or slippage of soils, from hazards or nuisances incidental to airports as related to potential uses of such lots, or from other risks to health, safety or the general welfare. For any proposed lot, the applicant may submit and the Planning Director may require a sealed statement from a North Carolina licensed engineer or other appropriate licensed expert that gives an opinion as to the risk from inundation or other flooding; subsidence; heaving; erosion or soil slippage; or any other risks to health, safety or the general welfare. In the absence of a sealed expert statement to the contrary, this opinion shall be conclusive.

B. As guides for such determinations, the Planning Director shall give due consideration to limitations, standards and requirements established in ordinances and regulations adopted in conformance with the National Flood Insurance Program, provision of water and sewerage, proposed drainage and potential types of occupancy and similar considerations.

C. Where a lot or parcel is not intended for building, the building site requirements of this subsection shall not apply, but such lot or parcel shall be identified on the plat with the following notation: “Not a building site. No building permit shall be issued nor shall any building be erected on this lot.” Permanent maintenance shall be provided for by the property owner, property owners association or other appropriate entity.

Sec. 8.5 Blocks

8.5.1 General Design Criteria

Lengths, widths and shapes of blocks shall be determined with due regard to:

A. provisions of adequate building sites suitable to the special needs of the type of use contemplated (residential, commercial, industrial or other);

B. other requirements of this Land Development Code;

C. need for convenient access, flow, traffic control and safety; and

D. limitations and opportunities of topography and drainage features.

8.5.2 Block Lengths

Block lengths shall not exceed 1,500 feet or be less than 300 feet.

8.5.3 Pedestrian Crosswalks

Where orientation or length of blocks or other considerations justify such action, crosswalks may be provided to improve pedestrian circulation and provide access to schools, playgrounds, shopping centers, transportation and other facilities. Where crosswalks are provided, they shall be located, dimensioned, fenced, screened, lighted or otherwise improved in such a manner as to provide security, tranquility and privacy for occupants of adjoining property, and safety for users of the walks.

Sec. 8.6 Streets

8.6.1 Continuation or Projection of Arterial and Collector Streets

Within or adjacent to subdivisions, arterial and collector streets shall provide for continuation of arterial or collector traffic flow from surrounding areas, except where topographic or other conditions make such continuance or projection unnecessary, impractical or undesirable.

8.6.2 Right-of-Way and Pavement Widths

All streets shall be constructed in accordance with the City's Engineering Manual of Practice.

8.6.3 Right-of-Way Reservation

A. Subdividers shall be responsible for reservation of right-of-way in the location and width indicated in the Thoroughfare Plan consistent with the roadway cross sections of the proposed roadways.

B. In cases where right-of-way for an existing street intended for widening is indicated in the official Thoroughfare Plan, such right-of-way reservation shall be adjacent to the existing right-of-way and of such width as to provide a total of half of the projected right-of-way width indicated in the Thoroughfare Plan, as measured from the center of the existing street; provided, however, that in cases of projected changes in the alignment of the centerline, greater or lesser amounts may be required as appropriate.

C. Where right-of-way in excess of eighty feet or twenty-five feet in the case of widenings, or in other cases where it is determined by the Staff Attorney that reservation cannot be required, such future street rights-of-way shall be shown on the plat and reserved for a period of five 5 years from the date of approval of the final plat unless the roadway is a funded project in the State's Transportation Improvement Plan or the City's 5 year Capital Improvement Plan.

D. Reserved area boundaries shall be treated as property lines for the purpose of calculating building setbacks, yards, buffers or other requirements of this Land Development Code during the reservation period.

8.6.4 Private Streets

Private streets shall be allowed providing sole or primary access to one or more lots only if all of the following requirements are met:

A. Private streets shall meet all minimum design, dimensional and construction standards as provided in the Manual of Practice for streets.

B. Design, location and improvement shall provide for safe intersection with public streets, safe passage of public service and emergency vehicles and protection of adjoining property.

C. Agreements satisfactory to the City Manager, as agent for the City Council, are made for continuing common use of the private street by occupants of the property served, drainage, access easements for public service and emergency vehicles, and continuing private maintenance in condition for safe passage of public service and emergency vehicles. There shall be a recorded agreement, contained in the deed restrictions for the development creating an entity with legal authority to collect funds and cause work to be completed to maintain the private roadway. This agreement shall also specify that unless the street is privately maintained in condition for safe passage of such vehicles, the City may provide such maintenance, with charges therefore becoming a lien on the properties served, dividing among them proportionate to their assessed tax valuation.

8.6.5 Connectivity

Property subdivisions shall be designed so as to provide adequate connectivity to external streets. Connectivity, meaning connection to streets outside the proposed subdivision, shall be provided as indicated below. In situations where practical design difficulties are present, specifically the proximity of water bodies, floodplains, slopes and the like, the Planning Director, in consultation with the City Engineer, may approve alternative connection requirements.

Number of Dwelling Units Permitted	Connection Points
1 to 50	1
51 to 100	2
101 or more	3

8.6.6 Cul-de-Sacs

A. Maximum Length. Except where otherwise approved by the Planning Director due to unusual land configuration (e.g., a narrow peninsula), cul-de-sac streets shall be subject to the following maximum length limits:

(1) if serving residential uses 1,500 feet to the beginning of the turning point;

(2) if serving other uses, 1,500 feet to the beginning of the turning area; and

(3) the Planning Director is authorized to approve access roads without turnarounds for dead end streets less than 150 feet in length or in such cases where a portion of a Transportation Plan Roadway is constructed to service the property.

B. Design. All such cul-de-sac streets shall be provided at the closed end with a turnaround of minimum dimensions as indicated with the City's Engineering Manual of Practice.

8.6.7 Roundabouts

All roundabouts and traffic circles shall be considered on an individual basis taking into consideration the design vehicle, speed, specific site conditions and limitations imposed by the individual location.

8.6.8 Access to Adjacent Properties

Where compliance with the City's approved transportation plan or to provide connection to existing or future neighborhoods, proposed streets may be extended to the boundary of such property with a temporary turnaround provided.

8.6.9 Grading and Surfacing

Streets and alleys shall be graded and surfaced as provided within the City's Engineering Manual of Practice.

8.6.10 Curbs and Gutters

Curbs and gutters, where installed, shall be constructed in accordance with the City's Engineering Manual of Practice.

8.6.11 Street Signs

Street name signs shall be installed according to specifications set forth in the City's Engineering Manual of Practice. The City Engineer may permit installation of nonstandard poles at the expense of the subdivider, who shall make arrangements, satisfactory to the City Engineer, for payment of any operating expenses above those for standard installations.

8.6.12 Street Names

The City or County shall assign the name of any street or road laid out within the territory over which it has jurisdiction. It shall be unlawful for any person in laying out any new street or road to name such street or road on any plat, by any marking or in any deed or instrument without first getting the approval of the Planning Director.

8.6.13 Street Lights

Streetlights may be provided and installed at such locations and in such manner and design as set forth in the City's Engineering Manual of Practice. Non-standard streets lights may be considered and approved by the City Engineer so long as:

A. the proposed fixtures meet illumination standards for the intended purpose,

B. any additional expense associated with their installation is paid for by the developer and;

C. their continuing maintenance is provided for.

8.6.14 Ground Cover

All land within the right-of-way that is not used for structures, vehicular or pedestrian traffic or for other approved landscaping shall be provided with grass or other ground cover of a nature approved by the City Engineer. Such ground cover shall be installed as set forth in the City's Engineering Manual of Practice. Ground cover may include appropriate plant materials preserved in place.

Sec. 8.7 Sidewalk and Pedestrian Access

8.7.1 Construction Specifications

A. All development projects shall be required to install sidewalks along the property frontage on all Transportation Plan Roadways and along any other street where sidewalks are required in the City's Sidewalks, Bikeways, Greenways and Trails Master Plan. Where curb and gutter or other improvements to the right of way are necessary to allow construction of the required sidewalk, the developer may construct the necessary improvements or may pay to the City an amount equivalent to the City's cost to construct the sidewalk. These funds shall be placed into a separate account of the City and shall be used exclusively for the construction of sidewalks in accordance with the City's Sidewalks, Bikeways, Greenways and Trails Master Plan.

B. If an in-lieu payment is made, such funds shall be deposited in the appropriate community service area account and expended only for the purchase of right of way for sidewalks, or for the development of sidewalks; serving the property or development in the immediate area, and only within the community service area in which the property is located.

C. Sidewalks shall be installed along at least one side of all proposed roadways (public and private) servicing either single family attached or detached residential developments.

D. Sidewalks shall constructed according to the specifications of the City's Engineering Manual of Practice. Sidewalks shall be installed before a certificate of occupancy is issued for the adjoining lot.

Sec. 8.8 Conservation Subdivisions

8.8.1 Purpose and Description

Conservation Subdivisions (CS) are a green development strategy that can support sustainable development in Hickory through the preservation of open space and natural areas. By providing design flexibility, CS strategically concentrates development on a subject site in order to protect sensitive and valuable open space, habitat, and other environmental resources. Successful implementation of CS strategies should result in the support and creation contiguous open space throughout the city.

8.8.2 Minimum Design Standards *(TA 14-01)*

A. Conservation Subdivisions shall comply with the following requirements:

(1) The minimum land area shall be equal to or greater than 2 acres

(2) Protects the minimum required land area, including developable and undevelopable land, as permanent open space for natural habitat, active or passive recreation, and/or conservation or preservation where no more than 50% of he designated open space shall be protected by other regulations or otherwise be unsuitable for development (i.e. floodplains, wetlands, steep slopes, shorelines, etc).

(3) Protects all floodplains, wetlands and steep slopes (steep slopes are those equal to or greater than 25%).

(4) Maintains upland buffers of at least 50' along all wetlands, lakes and perennial streams.

(5) Protects rural roadside character and public safety by limiting the number of driveways.

(6) Identifies a conservation theme. Conservation themes may include, but are not limited to: Maintenance of mature woodlands, existing fields, pastures, meadows, forest preservation, water quality preservation, or viewshed preservation. The conservation theme should guide the location and use of the designated open space.

B. Dimensional Standards

Zoning District	Min. Lot Size[1] (sq. ft.)	Min. Lot Width (ft)	Min. Conservation Area	Setbacks[2] (ft)		
				Front	Side	Rear
R-1	6,000	50	50%	25	5	20
R-2	4,800	40	50%	20	5	10
R-3	4,000	30	50%	20	5	10
R-4	3,200	20	50%	20	5	10
Non-Residential Districts	2,400	20	50%	20	5	10

(1) No land intended for dwellings units or other buildings or their accompanying los may be preserved as conservation area.

(2) All setbacks for lots on the perimeter of the development shall be the same as those of the underlying zoning district. Side corner setbacks shall be 15 feet. Setbacks as noted herein shall apply to single family and two family dwellings. The setbacks included herein shall be treated as building separations between multiple family buildings and setbacks from property lines for 1, 2 and 3 story multiple family dwellings. Buildings greater than three stories in height shall provide an additional 5-foot of setback or separation per story per structure. Where these regulations are inconsistent with the North Carolina Building Code, the more stringent shall apply.

C. Conservation Subdivisions shall consider the following design principles and shall provide a written report to the Planning Director demonstrating how each of these requirements is going to be met to the greatest extent possible on the subject property:

(1) Developed lots are located in or adjacent to woodlands and visually buffered from surrounding roadways

(2) Designs around existing hedgerows and tree lines between fields and minimizes impacts on large mature woodlands

(3) Leaves scenic views and vistas unblocked

(4) Interior lots surrounded by other structures should be avoided; each structure should have a view of the conservation area.

D. Provides open space that is reasonably contiguous, avoids linear configuration where possible (except along streams and other linear features) and is located to take advantage of the potential for the creation of additional open space parcels on adjoining parcels.

(1) Provides for the permanent maintenance and protection of dedicated open space.

(2) Preserves and maintains mature woodlands, existing fields, pastures, meadows and creates buffers to protect residential development from agricultural land uses.

E. All streets, whether public or private, utility lines, and other necessary infrastructure improvements shall be constructed in accordance with the City's Manual of Practice.

8.8.3 Planning Director Approval Required

The Planning Director shall find that the above referenced requirements have been met and the design principles have been complied with to the maximum extent possible before approving a preliminary plat for a Conservation Subdivision.

Sec. 8.9 Domestic Water Supply and Sanitary Sewerage

8.9.1 Public Water Supply Required

Each lot intended for a use requiring domestic water supply shall be served by a public system approved by the State of North Carolina or, where such a system is not available to the lot, by a community water system or individual well. This requirement shall not be deemed to prohibit installation of private water supply systems where the water is not used for human consumption. All required domestic water supply installations shall be in accordance with the Manual of Practice and the approved plans and specifications for the subdivision or development project.

8.9.2 Public Sanitary Sewerage Required; Exceptions

A. Each lot intended for a use requiring sanitary sewerage shall be served by a public system approved by the State of North Carolina, except where it is documented and such documentation is accepted by the Planning Director that the provision of sewer service is not feasible.

B. Where the Planning Director has accepted that sewer service is not feasible by a public system, it shall require approval of the lot by the County Department of Health. Such approval shall be in accordance with State law, including but not limited to G.S. Chapter 130A, Article. 11, "Wastewater Systems

C. All required sanitary sewerage shall be installed in accordance with the Manual of Practice and the approved plans and specifications for the subdivision or development project.

Sec. 8.10 Erosion Control

8.10.1 Sedimentation Control

In general, during the preparation of the subdivision or any other development project and installation of improvements, appropriate measures shall be taken to prevent erosion and damaging siltation on the property and on adjoining land or water areas in accordance with the North Carolina Sedimentation Pollution Control Act of 1973 (G.S. Chapter 113A, Article 4) and all applicable administrative regulations design manuals. Erosion control plans shall be approved by the NC Department of Environment and Natural Resources or the appropriate county agency.

8.10.2 Topsoil Conservation

In any grading or filling operations, desirable topsoil shall be conserved and redistributed as such, particularly to cover exposed subsoils.

8.10.3 Erosion Control Permit

The City Engineer shall not issue a Land Development Permit until he or she has received a copy of the Certificate of Compliance with the provisions of Chapter 113A, Article 4 of the North Carolina General Statutes, Sedimentation Pollution Control Act of 1973, as amended, issued by the appropriate office of the NC Department of Environmental and Natural Resources or appropriate agency.

Sec. 8.11 Fire Protection

The following standards shall apply to all property within the City of Hickory's Corporate Limits and Extra Territorial Jurisdiction. All property shall be afforded fire protection by fire apparatus access roads. All property served by a public water supply system shall be afforded fire protection by means of fire hydrants and their appurtenances constructed and installed in accordance to the requirements and specifications of the Manual of Practice, Chapter 11 of the Hickory City Code, and the current version of the Public Utilities Distribution Construction Specifications.

8.11.1 Financial Responsibility

Unless otherwise approved by the Public Utilities Department, the developer or property owner shall bear the expense of providing Fire Department access roads, water mains and fire hydrants. This shall include, but not be limited to the following:

A. Extension of publicly owned water mains in order to provide service for the new development.

B. Additional fire hydrants and assemblies to existing waterlines.

C. Upgrading existing public and private water mains to provide the necessary fire flows.

8.11.2 Timing of Required Improvements

When Fire Department access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods of protection are provided.

8.11.3 Fire Department Access Roads:

All lots shall be afforded fire protection by Fire Department access roads and if served by public water systems shall be in accordance with the requirements and specifications of the Manual of Practice, Chapter 11 of the Hickory City Code and the approved plans and specifications for the subdivision or development project. Fire Department access roads shall comply with the following:

A. Dimensions - Fire Department access roads shall have an unobstructed width of not less than twenty (20) feet except where passing through an approved security gate or by a guardhouse. The unobstructed vertical clearance shall not be less than 13 feet 6 inches.

B. Surface - Fire Department access roads shall be designed and maintained to support the imposed loads of fire apparatus weighing at least 75,000 pounds and shall be surfaced so as to provide all-weather driving capabilities.

C. Turning Radius - The required turning radius of a Fire Department access road shall be approved by the Engineering Department based on the maximum turning radius of responding apparatus.

D. Security Gates – Gates securing the Fire Department access road shall comply with the following provisions:

(1) The portion of the roadway that allows passage through the security gate shall provide a minimum of fifteen (15) feet of clear width.

(2) Gates shall be of the swinging or sliding type.

(3) Gates shall be of materials that allow manual operation by one person.

(4) Electric gates shall be equipped with a means of opening the gate by emergency response personnel for emergency access.

(5) Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools.

E. Guardhouse – Guardhouses by which a Fire Department access road shall pass must comply with the following provisions:

(1) Clear width (roadway) of twenty (20) feet for two-way traffic.

(2) Clear width (roadway) of twelve (12) feet for one-way traffic.

(3) Clear width of fifteen (15) feet for other obstruction such as columns and pillars.

F. Dead Ends – When required, Fire Department access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.

8.11.4 Residential Planned Developments and Multiple Family Developments shall comply with the following:

A. All portions of buildings housing a dwelling unit shall be located within one hundred fifty (150) feet from the closest fire apparatus access road, as measured around both sides of the building and not through the building.

B. Exception: The City Fire Prevention Bureau is authorized to increase the maximum distance of one hundred fifty (150) feet where:

(1) The building is equipped throughout with an approved automatic sprinkler system installed in accordance with the applicable NFPA Standard for that occupancy classification.

(2) Fire Department access roads cannot be installed due to location on property, topography, waterways, non-negotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.

8.11.5 Water Supply

An approved water supply capable of supplying the required flows for fire protection and domestic use shall be provided to premises upon which facilities, buildings, or portions of buildings are constructed or moved into.

8.11.6 Fire Hydrant Accessibility

All required fire hydrants shall be located in an easement or right of way affording the Fire Department access except as otherwise approved by the Fire Marshal and Public Utilities Manager.

8.11.7 Fire Flow

Fire flows shall be determined in accordance to Chapter 11 of the Hickory City Code.

A. The minimum acceptable fire flow for each fire hydrant is 1000 gallons per minute in residential areas and 1500 gallons per minute in other districts.

B. The applicant shall provide construction alternatives shall be provided if the required fire flows exceed the available water supply.

8.11.8 Water Main Size

A. Transmission lines shall be sized in accordance with the long-term extension plan of the City of Hickory or as required by the Public Services Department.

B. The following are minimum sizes of the water mains upon which fire hydrants can be installed:

Main Type	Diameter (inches)
Dead End	8
Looped	6

C. When necessary to provide required flows, water main sizes may need to be increased or water mains looped. Any proposed alternate design shall be submitted to the Fire Marshal and Public Utilities Manager for review and approval prior to the technical plans and specifications review for issuance of a Land Development Permit.

8.11.9 Fire Hydrant Distribution

Fire hydrants shall be provided and distributed in accordance to Chapter 11 of the Hickory City Code. The following shall be the minimum requirements:

A. In residential districts, the maximum distance between fire hydrants, measured along street centerlines, shall be 600 feet. Where intersections are less than 800 feet apart, a fire hydrant is not required between the intersections provided that a fire hydrant is located at the intersections.

(1) Fire hydrant spacing may be exceeded if the following conditions are met::

(a) Fire Department access road and fire hydrants have previously been installed and are not being modified;

(b) No extension or work is being done to the fire department access road, water supply system, or fire hydrants;

(c) The maximum distances between the existing fire hydrants does not exceed 1,000 feet;

(d) Fire hydrants are located on both sides of the lots being subdivided.

B. In commercial, industrial, office, and institutional districts, fire hydrants shall be located at each intersection with intermediate spacing not to exceed 500 feet as measured along street centerlines.

C. In mixed-use and multifamily districts, the distance between fire hydrants will comply with the requirements of (A) or (B) as above, based upon review and recommendation of staff.

D. In limited access and no access streets, fire hydrants shall be located at each street intersection and at 1000-foot intervals along the street. Fire hydrants shall be placed in a staggered arrangement on both sides of any roadway classified as a major or minor thoroughfare with the hydrant spacing as referenced above.

8.11.10 On-Site Fire Hydrant Distribution

For other than one and two family detached dwellings, on-site fire hydrants shall be provided in accordance with Chapter 11 of the Hickory City Code.

8.11.11 Plans, Residual Pressure and Flows

Plans of all proposed fire protection water mains, fire hydrant locations, and all other aspects of fire protection, shall be submitted to the City for approval. Static pressure, residual pressure, and flows shall be included in order to verify that the minimum fire flow requirements are being met.

A. At a minimum preliminary plats shall include the location of the water mains, fire hydrants, and their appurtenances and such other information as may be required by in the Manual of Practice or review officials to reasonably determine compliance with applicable regulations.

B. Technical plans and specifications submitted for Land Development Permit review shall at a minimum include the following:

(1) Size of the water mains.

(2) Fire hydrant locations.

(3) Valves, blow-offs, and their appurtenances.

(4) Static pressure, residual pressure, and flows for each fire hydrant.

(5) Bear the seal of a professional engineer licensed in the State of North Carolina.

8.11.12 Private Water Mains and Fire Hydrants

If approved, private water mains and their appurtenances shall comply with the following requirements:

A. Shall be installed to meet the specifications of the Public Utilities Department and the National Fire Protection Association's Standard #24.

B. Shall be inspected, tested, and maintained as required by the Public Utilities Department and the National Fire Protection Association's Standard # 25.

C. Shall be maintained in an operative condition at all times and shall be repaired where defective.

D. Shall be identifiable as required by the City of Hickory.

Sec. 8.12 Underground Utilities

8.12.1 Underground Utilities Required

Electrical distribution systems (defined for the purposes of these regulations as facilities for delivering electrical energy from a substation to a customer's meter and generally associated with voltage in the 14.4-24.9 kv range and below) telephone lines and any other wire installation shall be underground unless unfeasibility of such installation has been documented and the documentation accepted as satisfactory by the Planning Director.

8.12.2 Unfeasibility Determination

In making its decision on the adequacy of the documentation, the Planning Director shall consider the following factors:

A. Terrain;

B. Load characteristics;

C. Reliability;

D. Accessibility;

E. System flexibility;

F. Equipment availability;

G. Geologic difficulties;

H. Safety; and

I. Timing.

Sec. 8.13 Easements

8.13.1 Utility Easements

Easements for utilities shall be provided where necessary along front, rear or side lot lines, but shall not be required to center on such lines. Such easements shall be sufficiently wide to provide for installation of such utilities and access for maintenance and operation.

8.13.2 Minor Drainage Easements

For purposes of this Land Development Code, minor drainage easements are defined as providing for drainage of surface waters from 4 or fewer lots and not involving water bodies of substantial significance in the ecology of the area, as hereinafter described. Minor drainage easements, where required, shall be permitted in cross lots at other points only where such arrangement is found by the City Engineer to be practically necessary as a result of topography or soils conditions or improved flow, and where such arrangement will leave a suitable buildable area, safe from inundation, erosion or subsidence and safely accessible from approved streets. Where necessary for operation, construction or maintenance, the City Engineer may require, in accord with the terms of the easement, minor drainage easements to be cleared or kept free of undergrowth, trees and other obstructions.

8.13.3 Utilities in Drainage Easements

Utilities in drainage easements shall be permitted only upon a showing the utilities will not interfere with the operation or effectiveness of the drainage easement, and with specific authorization by the City Engineer, and only in locations authorized.

Sec. 8.14 Recreation and Open Space

8.14.1 Intent

The regulations of this section are intended to provide for the dedication or reservation of recreation and open space areas serving residents of the subdivision or, alternatively, for the provision of funds for the acquisition or development of recreation or open space sites serving residents of the subdivision or development or more than one subdivision or development within the immediate area.

8.14.2 Applicability; Community Services Districts Established

The regulations of this section shall apply within Community Service Districts. Community Service Districts are established as delineated on the Community Services Areas Map, which is adopted as part of this Land Development Code and may be amended in the same manner as any other portion hereof.

8.14.3 Land Dedication Suitability Criteria

The Planning Director shall be authorized to reject or accept offers of land dedication considering the following criteria:

A. It shall not be encumbered with any substantial structure;

B. It shall not be devoted to use as a roadway, parking area or sidewalk;

C. It shall be left in its natural or undisturbed state if wooded, or, if disturbed, shall be properly vegetated and landscaped to create an area that is capable of being used and enjoyed for informal and unstructured recreation;

D. It shall be legally and practicably accessible to the residents of the development or to the general public; and

E. It shall be topographically and physically suitable for the purposes intended.

8.14.4 Land Dedication Requirement

Unless otherwise expressly stated herein, 500 square feet of land area per dwelling unit shall be offered for dedication to a Homeowners Association, Property Owners Association or other approved entity for each dwelling unit permitted within a subdivision, based on the zoning designation of the property or other limitations on density that are enforceable by the city.

8.14.5 Fees In-Lieu

A. Where lands suitable in scale, character or location are not available within the subdivision as determined by the City, or at the election of the developer, an amount equal to the current valuation for property tax purposes of 1,000 square feet of buildable land per dwelling unit within the subdivision may be paid in lieu of dedication.

B. If the value cannot be agreed upon by the subdivider and the City of Hickory, an appraisal board consisting of one appraiser selected by the City of Hickory at its own expense, one appraiser selected by the subdivider at his expense, and a third selected by the other two for which the expense shall be shared equally, shall determine the value. If the three appraisers selected are unable to unanimously agree upon value, then value will be determined by taking the average of the three values set by each appraiser, which amount shall then be binding on all parties.

C. Fees in-lieu shall not be used to satisfy the open space requirements of Conservation Subdivisions.

8.14.6 Combination of Alternatives

The City Council may permit a combination of the land dedication or fees in-lieu to satisfy the requirements of this section when it determines that the combination is in the best interest of the citizens of the area to be served.

8.14.7 Use of Open Space Land

A. Open Space lands shall be used only for:

(1) Parks, playgrounds, play fields, neighborhood or community recreation centers, nature parks, fitness trails, or bikeways; or

(2) For historic, cultural and archeological preservation where at least 75 percent of the site is also usable for one of the purposes in paragraph (1) above.

B. The subdivider shall state in the offer of dedication or reservation the uses to which the land may be placed.

8.14.8 Use of In-Lieu Payments

If in-lieu payments are made, such funds shall be deposited in the appropriate community service area account and expended only for the purchase of lands for the purposes indicated above, or for the development of park, recreation or open space sites; serving the subdivision or more than one subdivision or development in the immediate area, and only within the community service area in which the subdivision is located.

Sec. 8.15 Public Sites

Where a proposed park or other recreation area, school site or other public site shown on the adopted master plans of the City of Hickory is located in whole or in part within the proposed subdivision, the proposed park or recreation area, school site or other public site shall be reserved for possible acquisition by the City Council or school board for a period of 18 months from the approval of the preliminary plat. Upon receipt of the preliminary plat, the Planning Director shall immediately notify the appropriate public body. The public body shall then decide within 60 days if it wishes the site to be reserved. If the City Council or school board does not wish to reserve the site, it shall so notify the Planning Director that no reservation should be required. If the City Council or school board does wish to reserve the site, the subdivision shall not be approved without the reservation. The City Council or school board shall then have 18 months from the approval of the preliminary plat to acquire the site by purchase or initiation of condemnation proceedings. If the appropriate public body has not purchased or begun proceedings to condemn the site within 18 months, the reservation requirement shall lapse and the land may be used by the subdivider for other purposes as allowed by this Land Development Code.

Sec. 8.16 Performance Guarantees

8.16.1 Applicability

In lieu of completion of all or part of required infrastructure improvements prior to approval of final plats, the applicant may post a performance guarantee in an amount sufficient to secure to the City of Hickory the satisfactory construction, installation and dedication of the uncompleted portion of the required infrastructure improvements.

8.16.2 Type of Guarantee

A. The performance guarantee may be in the form of a certified check, an irrevocable bank letter of credit or a performance and payment bond underwritten by a North Carolina licensed corporate surety company. The applicant may chose from these options which type of performance guarantee will be used.

B. Except in the case of certified checks, such sureties shall not be accepted unless the Staff Attorney has made a review thereof and rendered a written opinion that the interests of the City of Hickory are fully protected.

C. The certified check shall be deposited with the City Manager, as escrow agent, who shall deposit it in an escrow account of the City of Hickory.

D. The irrevocable bank letter of credit shall be from a banking corporation licensed to do business in North. The terms of the letter shall include the absolute right of the City Manager to withdraw funds from the bank forthwith upon the City Manager certifying to the bank that the terms and conditions of the performance guarantee have been breached.

8.16.3 Plans and Construction Programs

A. Plans, specifications, quantities, unit costs and estimated total costs shall be provided by the applicant to the Planning Director, together with a schedule indicating time of initiation and completion of the work, as a whole or in stages. Number of copies shall be as required for records and processing in the particular case.

B. The Planning Director shall refer such plans and programs to governmental bodies exercising control for their recommendations as to whether the proposals meet all requirements of such agencies, as to sufficiency of cost estimates, and as to reasonableness of construction programs.

8.16.4 Amount and Terms of Guarantee; Time Limits

A. Following receipt of such recommendations, the Planning Director shall prepare recommendations as to amount and terms of the performance guarantee, including time of initiation and completion of the work, as a whole or in stages, provisions concerning extensions for cause, and provisions for release of portions of the guarantee upon completion of portions or stages of the work.

B. The time between initiation and the completion of the required improvements, including any provision for extension, shall not exceed two years.

C. The Planning Director, based upon the recommendations and with such changes as necessary to conform the performance guarantee to the recommends of other governmental bodies, shall set the amount and terms of the performance guarantee, subject to all legal reviews and opinions required under this section.

D. The amount of the guarantee shall be 125% of the total estimated costs provided to complete all outstanding infrastructure improvements. Reductions in the total amount of the performance guarantee may be permitted. In order to request a reduction in the provided performance guarantee, the developer / subdivider shall provided revised documentation outlining outstanding infrastructure improvements, and revised, plans schedules and the revised performance guarantee.

8.16.5 Inspections; Reports; Cost Responsibility

A. The applicant’s engineer of record shall certify that all work has been completed in accordance with the Manual of Practice and the approved plans and specifications for the subdivision or development project. Governmental bodies exercising control shall make inspections to determine whether work has started as scheduled; shall make inspections as are necessary during the course of work, and shall make final inspections to determine whether stages of construction required under the performance guarantee have been completed in accordance with the terms of the guarantee.

B. The City may adopt fees to recover the costs of its inspections.

C. Within 5 working days of such inspections, copies of reports of the results thereof shall be provided to the Planning Director.

D. The full cost of making such inspections and preparing such reports shall be paid by the applicant.

8.16.6 Action on Inspection Reports

A. Reports Indicating Satisfaction of Requirements. Where such reports indicate satisfactory completion of work within time limits set and in accordance with other terms of the performance guarantee, for agreed upon stages or for the entire work, the Planning Director shall so notify the City Manager, and by first class mail the applicant and any surety company involved. The City Manager, upon such notification and any further assurance he may require from the Staff Attorney or governmental bodies exercising operating control, shall then release all or portions of the performance guarantee in accordance with the terms thereof.

B. Reports Indicating Failure to Satisfy Requirements. Where such reports indicate failure to initiate work on schedule or to complete work on schedule in full compliance with the terms of the performance guarantee, the Planning Director shall so indicate to the City Manager and by first class mail to the applicant, governmental bodies exercising control, any surety company involved and the City Manager. Such notice shall indicate that unless action required under the terms of the performance guarantee is completed within 30 days of the date of such notification, the performance guarantee or portions thereof, set forth in its terms, shall be called. Unless such action is completed, as evidenced by inspections and reports from governmental bodies exercising control transmitted through the Planning Director, the City Manager shall call the performance guarantee or affected portions thereof.

C. Reports Indicating Unsatisfactory Progress. Where such reports indicate that work initiated appears likely not to be completed on schedule, and where the performance guarantee provides for extension of time for cause, the Planning Director shall notify the applicant by first class mail and any surety company involved concerning potential need for an application for such extension. Where such notice has been given, no application for extension shall be considered after expiration of the original schedule date.

8.16.7 Actions Following Failure to Complete Work Under Performance Guarantee

Where work required under the terms of any performance guarantee is not completed by the applicant as specified therein, the City Manager, following the call of the guarantee, shall take such action as is appropriate in the circumstances of the case to procure the completion of the required improvements at the earliest reasonable time, according to the plans and specifications and staging of construction approved in connection therewith.

8.16.8 Acceptance of Guarantee of Other Governmental Agency or Public Utility

Where all or part of required improvements are to be completed by another government agency or public utility, the City Manager may accept the written guarantee of such agency to complete such improvements within a time to be mutually agreed upon, with time for completion limited as provided in Sec. 8.16.4.

Sec. 8.17 Maintenance and Warranty Funds

8.17.1 Maintenance Required

The developer shall maintain all land and required improvements in a condition equal to or better than at the time of final inspections. Under no circumstance shall any portion of the development, whether land or infrastructure, be allowed to remain in a state where the development poses any

form of safety hazard. Such maintenance shall be the responsibility of the developer until acceptance of the offer of dedication has been properly approved in accordance with Sec. 2.3.4D.

8.17.2 Warranty Required

Upon acceptance of the offer of dedication, the developer shall be responsible for the repair of defects in workmanship and/or materials for all dedicated improvements located within the development. The warranty period shall be 12 months from the acceptance of the offer of dedication.

Article 9 **Standards of General Applicability**

Sec. 9.1 Building Number and Arrangement

9.1.1 Buildings per zoning lot

A. When detached single family dwellings and duplexes are proposed, only one principal building shall be allowed per zoning lot.

B. Other types of development

When more than one principal structure is proposed on a zoning lot, the Planning Director may issue a Zoning Compliance permit provided that the following standards and all other applicable provisions of this Land Development Code are met:

(1) The minimum lot size shall be 40,000 square feet.

(2) All streets, street or driveway connections and utilities must be designed and constructed to the standards of the Article 8 and the Manual of Practice.

(3) Approval Procedures

(a) Materials to be submitted

The Planning Director shall prepare an application that shall detail the information necessary to consider the proposal. This information shall generally include but not be limited to site plans, surveys, and such other information as may be necessary to determine compliance with minimum code requirements, ensure that surrounding property is protected from any potentially negative impacts of the development and determine that public services are in place to adequately service the proposed development.

(b) Review of Minor Planned Development Proposals

On receipt of a complete final development plan and detailed proposals indicated above, the Planning Director shall review the materials in accordance with the provisions of Sec. 2.6.

(c) Planning Director's Action on Final Plans

i. After the development plan has been approved by the Planning Director, building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular development plan shall be observed.

ii. Except as provided below, approval of final plans and reports shall be binding on the developer and any successors in title so long as appropriate zoning applies to the land.

Sec. 9.2 Off-Street Parking and Loading

9.2.1 General

A. Purpose

The purpose of the off-street parking and loading regulations of this section is to ensure that the off-street parking, loading and vehicular access needs of land uses will be met without adversely affecting traffic patterns, vehicular and pedestrian safety, or the surrounding neighborhoods. In recognition of the fact that different transportation access-

based solutions will be appropriate in different areas of the city and for different types of development, the standards set out in this section allow flexibility in dealing with vehicle parking, loading and access issues.

B. Applicability

(1) New Development

(2) Unless otherwise expressly stated in this section, the parking, loading and access standards of this section shall apply to all new buildings constructed and all new uses established in all zoning districts.

(3) Expansions and Increases in Intensity

(4) Unless otherwise expressly stated in this section, the parking, loading and access standards of this section shall apply when an existing structure or use is expanded or enlarged, through the addition of dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking and loading requirements. Additional off-street parking and loading spaces shall be required only to serve the enlarged or expanded area, not the (pre)existing building or use.

(5) Change of Use

(6) Unless otherwise expressly stated in this section, off-street parking and loading facilities shall be provided for any change of occupancy, use or manner of operation that would, based on the Off-Street Parking Schedules of Section 9.2.2 or the Off-Street Loading Schedule of Section 9.2.3, result in a requirement for more parking or loading spaces than the former use. Additional parking or loading spaces shall be required only in proportion to the extent of the change.

C. No Reduction Below Minimums

The number of parking and loading spaces existing on a site shall not be reduced below the minimum requirements of this section except as otherwise allowed herein. Any change in use to a use that requires more parking or loading spaces than exist on the subject site shall be a violation of this Land Development Code unless additional parking and loading spaces are provided to meet the minimum requirements of this section.

D. Damage or Destruction

When a conforming or nonconforming building or use is damaged by fire, collapse, explosion, or Act of God and is reconstructed, repaired, or rebuilt (subject to all applicable provisions of this Land Development Code), off-street parking and loading facilities need not be provided, except that any parking or loading spaces that existed at the time of damage or destruction shall be restored or continued in operation. In no case, however, shall it be necessary to restore or maintain parking or loading spaces in excess of the requirements in effect at the time the use or building is re-established.

E. Effect on Nonconforming Status

A use that was legally established shall not be deemed nonconforming solely as a result of providing fewer than the minimum number of off-street parking or loading spaces required by this section.

F. Joint Use

Off-street parking and loading facilities provided for one use shall not be considered as providing required parking or loading facilities for any other use, except as otherwise expressly allowed under the Shared Parking provisions of this section.

G. Off-Street Parking Exemptions

(1) Uses in the C-1 zoning district shall be exempt from the off-street parking requirements of Sec. 9.2.2.

(2) Nonresidential uses occupying 2,000 square feet of gross floor or less area in an NC or CC-1 districts shall be exempt from the off-street parking requirements of Sec. 9.2.2.

9.2.2 Off-Street Parking Schedules *(TA 14-01)*

A. Schedule A

Off-street parking spaces shall be provided in accordance with the requirements of Schedule A. In lieu of complying with the standards of Schedule A, an applicant may request approval of an Alternative Parking Plan, pursuant to 9.2.7. In some cases, the applicable off-street parking space requirement in Schedule A refers to Schedule B. This schedule can be found following "Schedule A."

Schedule A	
Use Categories	**Minimum Parking**
Residential Categories	
Group Living	1 per 4 residents
Single Family Detached	2 per unit
Single Family Attached	2 per unit
Duplexes	2 per unit
Manufactured Homes	2 per unit
Multi-Family	1.5 per unit
Nursing/Extended Care Facilities	0.2 per bed
Senior Housing	0.66 per unit
Commercial Categories	
Adult Business	3 per 1,000 sq. ft.
Amusement Facilities, Outdoor	Per Schedule B
Amusement Facilities, Indoor	3 per 1,000 sq. feet
Major Event Entertainment	Per Schedule B
Marina	0.5 per slip
Mini-storage Facilities	1 per 100 storage units plus 1 per employee (no less than 4)
Office	2 per 1,000 sq. ft.
Retail Sales and Service (unless otherwise listed)	3 per 1,000 sq. ft.
Furniture sales	2 per 1,000 sq. ft.
Restaurants and Drinking Establishments	8 per 1,000 sq. ft.
Health Clubs and Gyms	5 per 1,000 sq. ft.

Schedule A	
Use Categories	**Minimum Parking**
Hotels and Motels	1 per rentable room
Meeting rooms and Places of Assembly	0.3 per seat
Theaters	0.25 per seat
Vehicle Repair	1 per 750 sq. ft. of floor area
Industrial Categories	
Industrial Service and Wholesale Sales	1 per 1,000 sq. ft.
Manufacturing and Production	0.6 per employee
Warehouse and Freight Movement	0.6 per employee
Waste-related, High Impact Use	Per Schedule B
Institutional Categories	
Basic Utilities	None
Colleges	Per Schedule B
Community Recreation Centers	2 per 1,000 sq. ft.
Cultural Facilities	2 per 1,000 sq. ft.
Daycare	2 per 1,000 sq. ft.
Elementary or Junior High School	0.25 per student
High School	0.3 per student
Medical Centers	Per Schedule B
Parks and Open Areas	Per Schedule B
Religious Institutions	0.2 per seat
Other Categories	
Agriculture	None, or per Schedule B
Aviation and Surface Passenger Terminals	Per Schedule B
Detention Facilities	Per Schedule B
Essential Public Facilities	Per Schedule B
Kennels	Per Schedule B
Mining	Per Schedule B
Railroad Yards	Per Schedule B
Wireless Communication Facilities	None, or per Schedule B

B. Schedule B

Schedule B uses have widely varying parking demands, making it difficult to specify a single requirement. The off-street parking requirement for such uses shall be established by the Planning Director based on estimates of parking demand, which may include recommendations of the Institute of Traffic Engineers (ITE), data collected from uses that are the same or comparable to the proposed use, or other relevant information. The Planning Director may require that the applicant submit a parking study that provides analysis and justification for the proposed number of spaces to be provided. Parking studies shall document the source of data used to develop the recommendations. The Planning Director shall review the submitted study along with any other traffic

engineering and planning data that are appropriate and establish the off-street parking or loading requirements for the use proposed.

9.2.3 Off-Street Loading Schedule

A. Off-street loading spaces shall be provided for all non-residential uses based on the schedule below:

Gross Floor Area (in sq. ft.)	Minimum Number of Spaces Required
Less than 40,000	1
40,000-99,999	2
100,000- 159,999	3
160,000-239,999	4
240,000+	5 + 1 per each additional 100,000 sq. ft.

B. Minimum Dimensions

Each loading space required by this section shall be at least twelve (12) feet wide by twenty-five (25) feet long, with at least fourteen (14) feet of overhead clearance. Each required loading space shall have adequate, unobstructed means for the ingress and egress of vehicles.

C. Waiver or Modification of Requirements

As part of the review and approval of a site plan, the Planning Director may waive or modify the requirements of this section upon finding that the use does not require loading spaces of a number or size required by this section, given the particular operational characteristics of the use and its need or lack thereof for the delivery or shipments of goods to and from the site.

D. Location and Screening of Loading Areas

To the maximum extent possible, all loading berths shall be located between the building and the rear lot line of the property, and/or shall be screened from the view of the street and adjacent properties. Such screening shall consist of dense evergreen landscaping, raised berms, or masonry walls that are architecturally compatible to the building. The planning director may approve an alternative screening mechanism provided that it meets or exceeds the objectives of this Land Development Code

9.2.4 Rules for Computing Parking and Loading Requirements

The following rules shall apply when computing the number of parking and loading spaces required under this section.

A. Fractions

When calculation of the number of required spaces results in a fractional number, a fraction of less than .5 shall be disregarded and a fraction of .5 or more shall be rounded to the next highest whole number.

B. Distances

Distances shall be measured between nearest off-street parking facility and nearest primary entrance of the building or use to be served.

C. Multiple Uses

When 2 or more uses or separate establishments are located within the same development, off-street parking shall be provided for each use or separate establishment unless an Alternative Parking Plan is approved under the provisions of Section 9.2.7, or the property is developed as a Conditional Zone. If one or more uses within a multi-use development are of a size that would otherwise exempt them from compliance with off-street parking requirements, only one such exemption shall be permitted to be taken for the entire development.

D. Floor Area

(1) Unless otherwise expressly stated, all square footage-based off-street parking and loading standards shall be computed on the basis of the sum of the gross horizontal floor areas of all the floors of a building or structure, measured from the exterior faces of exterior walls or from the centerline of walls separating 2 buildings or structures, but excluding stairwells and elevator shafts at each floor and floors or parts of floors devoted exclusively to vehicular parking or loading.

(2) When more than 20 percent of the floor area on a site is in an accessory use, the parking for the accessory use is calculated separately. An example would be a 30,000 square foot building with 20,000 square foot warehouse and a 10,000 square foot accessory office area. The required parking for the office and warehouse would be calculated separately.

E. Seating

When seating consists of benches, pews or other similar seating facilities, each 20 linear inches of seating space shall be counted as 1 seat. Where parking requirements relate to movable seating in auditoriums and other assembly rooms, 15 square feet of net floor area shall be construed to be equal to one seat, except where otherwise specified. Net floor area shall be the actual area occupied by seating and related aisles, and shall not include accessory unoccupied areas or the thickness of walls.

F. Employees, Students and Other Occupants

For the purpose of computing parking requirements based on the number of employees, students, residents or occupants, calculations shall based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated or licensed capacity, whichever is applicable.

G. New and Unlisted Uses

Upon receiving a development application for a use not listed in the parking and loading schedules of this section, the Planning Director shall apply the standards of the listed use that is deemed most similar to the use proposed or require that a parking study be submitted pursuant to Sec. 9.2.2B)

H. Bicycle Parking

Bicycle parking may substitute for up to ten percent of required parking. For every five secure bicycle parking spaces provided, the motor vehicle parking requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.

9.2.5 Use of Required Off-Street Parking Spaces

A. Required off-street parking spaces may be used only for parking licensed, operable, motor vehicles.

B. Required spaces may not be used for the display of goods for sale or lease, except in compliance with a temporary or seasonal use permit, for motor vehicle repair or service work of any kind, or for long-term storage of recreational vehicles, boats, motor homes, campers, mobile homes, or building materials.

C. No buildings other than those for shelter of attendants for the off-street parking area shall be erected or placed upon off-street parking areas. Attendant buildings may have a maximum gross floor area of 50 square feet and a maximum height of 15 feet.

9.2.6 Parking on Unpaved Surfaces Prohibited

No person shall keep, store or park any motor vehicle or trailer, whether operable or inoperable, on any portion of a front yard or any side corner yard facing a street except on a paved surface that is used as a driveway or approved off-street parking area to the property.

9.2.7 Alternative Parking Plans

A. Scope

An Alternative Parking Plan represents a proposal to meet vehicle parking and transportation access needs by means other than providing parking in accordance with the ratios established in Sec. 9.2.2. Alternative Parking Plans may not be used to reduce required setbacks, landscaping or screening of off-street parking areas.

B. Applicability

Applicants who wish to provide fewer off-street parking spaces than required pursuant to Sec. 9.2.2 or provide parking on a remote site shall be required to secure approval of an Alternative Parking Plan in accordance with the standards of this section.

C. Review and Approval Procedure

(1) The Planning Director shall be authorized to approve, approve with conditions, or deny Alternative Parking Plans for developments that will provide at least 80 percent of the required number of off-street parking spaces.

(2) All other Alternative Parking Plans shall require review and approval in accordance with the Special Use procedures of Sec. 2.4.

(3) In order to approve an Alternative Parking Plan, the Decision-Making Body must determine that the proposed plan will do at least as good of job protecting surrounding neighborhoods, maintaining traffic circulation patterns and promoting quality urban design as would strict compliance with otherwise applicable off-street parking standards.

D. Contents

Alternative Parking Plans shall be submitted in a form established by the Planning Director and made available to the public. At a minimum, such plans shall detail the type of alternative proposed and the rationale behind the proposal.

E. Recording

Approved Alternative Parking Plans shall be recorded in the office of the County Register of Deeds where the property is located. No building permits or certificates of occupancy shall be issued until proof of recordation of the agreement has been presented to the Planning Director.

F. Violations and Revocation

Any modification or waiver of off-street parking approved under an Alternative Parking Plan shall remain valid only as long as the conditions warranting the modification or waiver exist. If such conditions are deemed to no longer exist, the alternative parking plan approval shall be revoked. Revocation of an Alternative Parking Plan shall not preclude other remedies and enforcement actions available under this Land Development Code. The Zoning Compliance Permit or Special Use Permit covering such approval shall include the requirements that the permit is valid only so long as the conditions described in the application for the permit exist.

G. Eligible Alternatives

A number of specific parking and access alternatives are described below. The Planning Director shall, however, be authorized to consider and approve other alternatives to providing off-street parking spaces on the site of the subject development if the applicant demonstrates to the satisfaction of the Planning Director that the proposed plan will do at least as good of job protecting surrounding neighborhoods, maintaining traffic circulation patterns and promoting quality urban design as would strict compliance with otherwise applicable off-street parking standards.

(1) Shared Parking

Shared parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Shared use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the planning director as part of a building or zoning permit application or land use review:

(a) The names and addresses of the uses and of the owners or tenants that are sharing the parking.

(b) The location and number of parking spaces that are being shared.

(c) An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and

(d) A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

(2) Remote Parking

The Planning Director may permit all or a portion of required off-street parking to be located on a separate lot (from the use served), subject to the standards of this section.

(a) Location

No Remote parking space shall be located more than 600 feet from the boundary of the lot containing the use to be served by the parking. This distance limitation may be waived the Planning Director if adequate assurances are offered that van or shuttle service will be operated between the remote lot and the principal use.

(b) Zoning Classification

Remote parking areas shall be considered accessory to the principal use that the parking spaces are intended to serve. Parking areas shall require

the same or a more intensive zoning classification than that required for the most intensive of the uses served by the remote parking area, provided that remote parking facilities may be located in any zoning districts that allow commercial parking lots.

(c) Remote Parking Agreement

If a remote parking area is not under the same ownership as the principal use served, a written agreement among the owners of record shall be required.

(d) Application

Remote Parking Agreements shall be submitted in a form established by the Planning Director. At a minimum, such plans shall detail the type of alternative proposed and the rationale behind the proposal.

(3) Valet Parking

The Decision-Making Body may authorize valet parking as a means of satisfying some or all of otherwise applicable off-street parking standards.

(4) Transportation Demand Management Plan

The Planning Director may authorize a reduction in the number of required off-street parking spaces for large developments or uses (those otherwise required to provide more than 100 parking spaces) that institute and commit to maintain a Transportation Demand Management program, in accordance with the standards of this section.

(a) Required Study

The applicant shall submit a study to the Decision-Making Body clearly indicating the types of transportation demand management activities and measures proposed. The study shall be provided in a form established by the Planning Director.

(b) Transportation Management Activities

There shall be no limitation on the types of transportation management activities for which reductions may be granted from otherwise required off-street parking ratios. The following measures shall serve as a guide to eligible transportation management activities.

(c) Posting and Distribution of Information

The distribution and posting of information from transit agencies and other sources of alternative transportation may be cause for a reduction in otherwise applicable off-street parking requirements.

(d) Transportation Coordinator

The appointment of a Transportation Coordinator with responsibility for disseminating information on ride-sharing and other transportation options may be cause for a reduction in otherwise applicable off-street parking requirements. In addition to acting as liaisons, Transportation Coordinators must be available to attend meetings and training sessions with the city or transit providers.

(e) Off-Peak Work Hours

Employers that institute off-peak work schedules, allowing employees to arrive at times other than the peak morning commute period may be eligible for a reduction in otherwise applicable off-street parking requirements. The peak morning commute period is defined as 7:30–9:00 a.m., and the peak p.m. period is defined as 4:00-6:00 p.m.

(f) Preferential Parking

The provision of specially marked spaces for each registered car pool and vanpool may be cause for a reduction in otherwise applicable off-street parking requirements.

(g) Financial Incentives

The provision of cash or in-kind financial incentives for employees commuting by car pool, vanpool and transit may be cause for a reduction in otherwise applicable parking requirements.

9.2.8 Vehicle Stacking Areas

The vehicle stacking standards of this subsection shall apply unless otherwise expressly approved by the Planning Director.

A. Minimum Number of Spaces

Off-street stacking spaces shall be provided as follows:

Activity Type	Minimum Stacking Spaces	Measured From
Automated teller machine	3	Teller
Bank teller lane	4	Teller or Window
Restaurant drive-through	4	Order Box
Restaurant drive-through	4	Order Box to Pick-Up Window
Car wash stall, automatic	4	Entrance
Car wash stall, self-service	3	Entrance
Quick lube	3	Entrance
Other	4	Pick-Up Window

B. Design and Layout

Required stacking spaces are subject to the following design and layout standards.

(1) Size

Stacking spaces must be a minimum of 10 feet by 20 feet in size.

(2) Location

Stacking spaces may not impede on or off-site traffic movements or movements into or out of off-street parking spaces.

(3) Design

Stacking spaces must be separated from other internal driveways by raised medians if deemed necessary by the Planning Director for traffic movement and safety.

9.2.9 Off-Street Parking, Loading, and Vehicle Use Area Design Standards

A. General

(1) All off-street parking, loading, and vehicle use areas shall be graded and drained so as to dispose of all surface water accumulated within the area, in accordance with the stormwater management standards contained herein and the design standards of the City of Hickory Engineering Department.

(2) All off-street parking, loading, and vehicle use areas shall be located solely on private property and shall not use public property or public rights-of-way.

(3) All off-street parking, loading, and vehicle use areas shall be designed, marked and signed to provide safe and convenient circulation, in accordance with commonly accepted traffic engineering practices, and subject to the review and approval of the Planning Director in accordance with said practices.

B. Surfacing

Except for agricultural uses, all off-street parking, loading and vehicle use areas shall be marked, signed and surfaced with asphalt or concrete pavement or an alternative approved by the Planning Director so as to provide a durable and dustless surface. In making a determination as to the suitability of a proposed alternative, the Planning Director shall find that such improvement:

(1) Provides a safe and permanent surface, suitable for the quantity and quality of traffic expected to use it;

(2) Provides a surface which will accept permanent delineation of parking spaces, aisles, access ways and maneuvering areas;

(3) Provides a surface that will not contribute to subsidence erosion or sedimentation, either on-site or off-site, and

(4) Provides a surface that meets the design standards of the Manual of Practice

(5) Parking areas for single family and two family dwellings located within front yards shall not exceed 24 feet in width per dwelling unit.

C. Striping

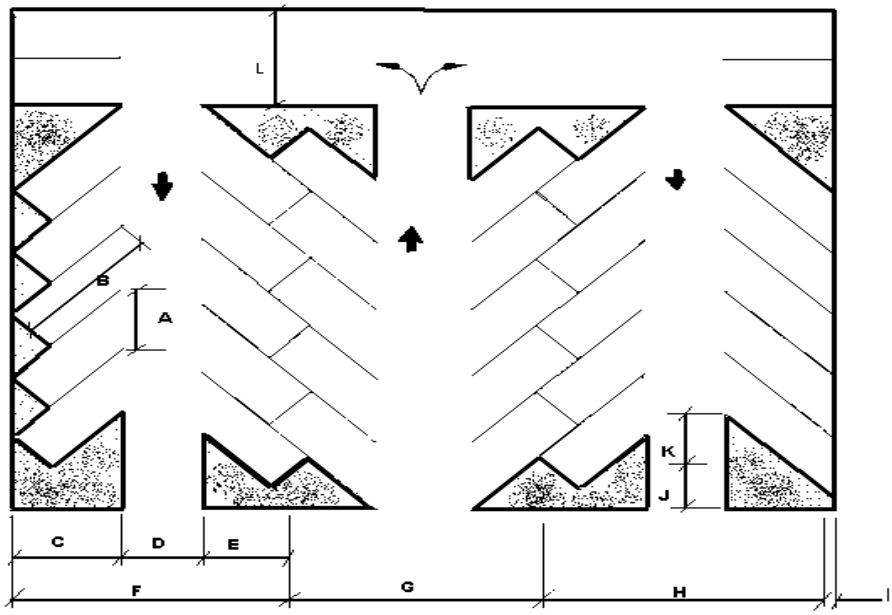
All parking areas, except for stacked parking, must be striped in conformance with the parking dimension standards of subsection (d) of this section, except parking for single-family residences and duplexes, which is exempt from this requirement.

D. Parking Space and Aisle Dimensions

Off-street parking spaces and vehicle circulation areas shall be designed in accordance with the following minimum standards:

Dimensional Feature (all dimensions in feet)	Diagram	Parking Angle				
		0	45	60	75	90
Stall width (parallel to aisle)	A	9.0	12.7	10.4	9.3	9.0
Stall length	B	24.0	24.5	21.4	19.5	18.0
Stall length of line	C	9.0	17.0	18.5	19.0	18.0
Aisle width between stall lines	D	12.0	12.0	16.0	22.0	24.0
Stall depth, interlock	E	9.0	14.8	17.0	18.3	18.0
Module, wall to interlock	F	30.0	43.8	51.5	59.3	60.0

Module, interlocking	G	30.0	41.6	50.0	58.6	60.0
Module, interlock to curb face	H	30.0	41.8	49.4	56.9	58.0
Bumper overhang (typical)	I	0.0	1.5	1.8	2.0	2.0
Offset	J	—	6.3	2.7	0.5	0.0
Setback	K	24.0	11.0	8.3	5.0	0.0
Cross-aisle-one-way	L	18.0	18.0	18.0	18.0	18.0
Cross-aisle, two-way	—	24.0	24.0	24.0	24.0	24.0



Sec. 9.3 Street Access

Each lot shall have access to a public street through a portion of the lot, through an approved private street or through commonly owned property. If access is provided through commonly owned property and providing, such access way shall be at least 20 feet in width. A lot created prior to December 21, 1965 to be used for one single-family dwelling may be made accessible through an approved access easement, recorded in the office of the Register of Deeds, a minimum of 20 feet in width, which provides access to the lot from a public or approved private street. Access easements shall require approval for legal sufficiency by the Staff Attorney and approval by the Planning Director.

Sec. 9.4 Intersection Visibility

No fence, wall, hedge, landscaping, sign or any other material or structure that will obstruct vision between a height of 2.5 feet and 8 feet (as measured from the pavement edge of the adjacent roadway) shall be erected, placed or maintained within the following area:

A. Begin at the intersection of the rights-of-way of the two intersecting roadways or at the intersection of the pavement edges, if no right-of-way exists;

B. Measure from the intersection 70 feet along the major right-of-way or pavement edge and 10 feet along the minor right-of-way or pavement edge; and

C. Connect the ends of the measurements to form a triangle.

Sec. 9.5 Arrangement and Location of Structures and Landscaping Generally

In addition to minimum setback, yard and building spacing requirements specified in this Land Development Code, all buildings and other structures, land preparation, and landscaping shall be so located and arranged on lots as to provide safe and convenient access for emergency purposes, fire protection, servicing, and off-street parking and loading located on the premises.

Sec. 9.6 Access to Uses Not Allowed in Residential Zoning Districts

9.6.1 Access Limitation

Privately owned land located in a residential zoning district shall not be used for vehicular or pedestrian access to any use located in a nonresidential zoning district unless the use is allowed in the residential district through which access is to be taken. This limitation on access shall apply unless otherwise expressly provided in this section or otherwise authorized by this Land Development Code or other lawful regulations.

9.6.2 Alternative Access Allowed

Where provision does not exist for safe access for emergency and public service vehicles and such access is not reasonably feasible except through a residential zoning district, access reserved for and limited to such vehicles may be authorized by the Fire Marshal, subject to conditions and safeguards designed to protect the tranquility and character of the residential land over which access is to be taken.

9.6.3 Pedestrian Access Allowed

Where convenience and safety would be promoted, the Planning Director may authorize walkways and bicycle paths to nonresidential zoning districts across a residential zoning district, with the consent of the affected property owners, subject to conditions and safeguards to protect the tranquility and character of the residential land over which access is to be taken.

Sec. 9.7 Solid Waste Storage Areas; Screening

All new buildings and uses, except for single-family dwellings and two to four family dwellings on a single lot, shall provide facilities for the central storage of solid waste within the boundaries of the lot. Developments on private streets may also be required to provide for the central storage of solid waste. Where such facilities are provided outside of a building, they shall be completely screened from view off-site.

9.7.1 Design and Other Specifications *(TA 12-01)*

Dumpsters or other trash receptacles shall be screened from public view on 3 sides by a solid wall at least 6 feet in height and on the fourth side by a solid gate at least 5 feet in height. The gate and wall shall be maintained in good working order and shall remain closed except when trash pick-ups occur. The wall shall be constructed in a durable fashion of wood, metal, brick and other masonry materials or a combination thereof as approved by the Planning Director. If the enclosure is visible from a public street, the wall and gate shall be architecturally compatible with other buildings and structures on the site. Applicants shall be responsible for coordinating with the solid waste disposal provider on matters relating to appearance, quantity, interior dimensions, locations and access.

9.7.2 Setbacks

A. All enclosures in nonresidential districts shall be located a minimum of 25 feet from residential zoning districts, and from the property lines of sites containing existing or proposed residential, school, and licensed daycare uses.

B. No trash receptacles shall be located within the front yard area except on solid waste collection days, when receptacles may be placed at the curb on the day prior to collection and shall be removed by 7:00 PM on the day of collection.

Sec. 9.8 Outdoor Lighting *(TA 14-01)*

9.8.1 The purpose of this section is to ensure site lighting contributes to the character of the site and does not disturb adjacent development as light spillage.

9.8.2 General Guidelines:

A. The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which it is located. Additionally, the maximum illumination permitted at the zoning lot line from any commercially or industrially zoned or used property onto a lot line of any adjacent residentially zoning lot shall be 0.20 foot-candles.

B. Lighting fixtures shall be limited to heights of 24 ft for parking lots and 16 ft for pedestrian walkways.

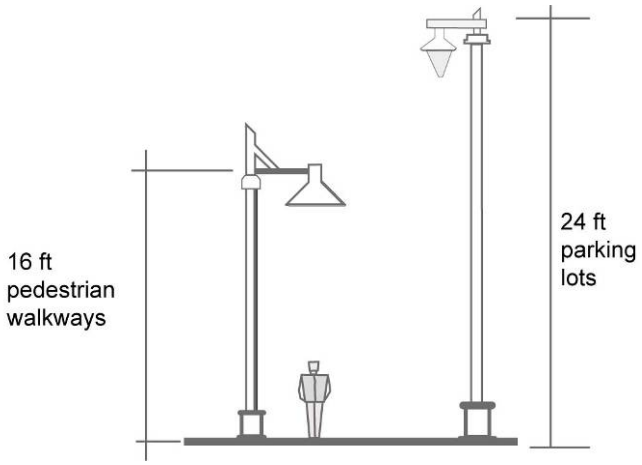


Figure 9-1: Pedestrian and Parking Lot Lighting

Sec. 9.9 Window Displays of Sexual Oriented Devices and Materials Depicting Specified Sexual Activities and Specified Anatomical Areas

No Sexually Oriented Device or any materials depicting Specified Sexual Activities and Specified Anatomical Areas shall be viewable from the outside of an establishment regardless of whether it meets the requirements of an Adult Use or Sexually Oriented Business as defined herein.

Sec. 9.10 Operational Performance Standards

All uses and activities conducted on commercial or industrial zoned property shall comply with the performance standards of this section.

9.10.1 Noise

A. Definitions

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. The definitions of this section shall be used solely for the purpose of interpreting and administering the Noise provisions of this section.

Term	Definition
“A" weighting scale.	The sound pressure level, in decibels, as measured with the sound level meter using the "A" weighted network (scale). The standard unit notation is dB(A).
Ambient base noise level.	The average sound pressure level in dB(A) during a reasonable period of time, as determined by employing a sound level meter as described in herein and excluding impulsive sounds.
ANSI.	American National Standards Institute or its successor bodies.
Construction.	On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth moving, blasting and landscaping.
Daytime hours	7:00 a.m. to 10:00 p.m., local time.
dB(A).	Sound level in decibels, determined by the "A" weighting scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI, S 1.4-1971, for a Type 2 instrument.
Decibel (dB).	A unit of measure, on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which for purposes of this section shall be 0.0002 microbars.
Emergency work.	Work made necessary to restore property to a safe condition, work required to protect, provide or prevent persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.
Nighttime hours.	10:01 p.m. to 6:59 a.m., local time.
Sound level.	In decibels, a weighted sound pressure level determined by the use of a sound level meter whose characteristics and frequency weightings are specified in ANSI standards.
Sound level meter.	Any instrument certified to meet or exceed ANSI standards which includes an omnidirectional microphone, an amplifier, an output meter and frequency weighting network(s) for the measurement of sound level.
Sound-magnifying device.	Any device or machine for the magnification of a human voice, music or any other sound. "Sound-magnifying device" shall not include emergency warning devices on police, fire, ambulance or other emergency vehicles, nor shall it include horns or steam whistles which are used for purposes authorized by below.
Sound pressure level.	In decibels, twenty (20) times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 0.0002 microbars
Sound source.	Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

B. Unless otherwise specifically indicated, it shall be unlawful for anyone to cause or allow the emission of sound from any source or sources which when measured pursuant to this section, to exceed the maximum decibel limits specified below. Ten (10) readings during a single observation period above the allowed decibel limits attributed to the sound source or sources shall constitute prima facie evidence of a violation of this section. The sound meter operator may cease taking readings as soon as the readings already taken

show a violation of this ordinance. It shall not be necessary to complete all one hundred (100) readings if a fewer number have already indicated a violation of the ordinance. If fewer than 10 readings above the allowed decibel level are observed during the observation period then no violation shall be deemed to exist.

C. Noise measurements shall be made at the property line nearest the source of the noise on the receiving property. Such noise measurements shall be made at a height of at least four (4) feet above the ground and at a point approximately ten (10) feet away from walls, barriers, obstructions (trees, bushes, etc.) on a sound level meter operated on the "A" weighting network (scale).

D. The sound level measurement shall be determined as follows:

(1) Calibrate the sound level meter within one (1) hour before use.

(2) Set the sound level meter on the "A" weighted network at slow response.

(3) Set the omni-directional microphone in an approximately seventy-degree position in a location that complies with subsections (a) and (b) above. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response (reading) observed at consecutive ten-second intervals until one hundred (100) readings are obtained. One hundred (100) readings shall constitute one observation period.

E. Equivalent sound levels shall not exceed the following maximum standards:

	7:00 a.m. – 10:00 p.m.	10:01 p.m. – 6:59 a.m.
Residential	60 dBA	55 dBA
Commercial	65 dBA	60 dBA
Industrial	75 dBA	75 dBA

F. Exception to limitation standards.

The maximum noise limitation standards defined in 9.10.1 shall not apply to the following sources:

(1) Emergency warning devices or safety signals;

(2) Lawn care equipment and agricultural field equipment used during the daytime hours;

(3) Equipment being used for construction, provided that all equipment is operated with all standard equipment manufacturers' mufflers and noise-reducing equipment in use and in proper operating condition.

(4) Parades, fairs, circuses, other similar public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities, including but not limited to any public square, park or amphitheater or normally associated with any of the above;

(5) Bells, chimes and similar devices which operate during daytime hours for a duration of no longer than five (5) minutes in any given period;

(6) Emergency work;

(7) Electric transformers and substations;

(8) Emissions of sound from any source or sources on a railroad or

(9) Emission of sound from any source or sources on public rights-of-way.

9.10.2 Vibration

A. Vibration levels shall not exceed the following standards:

	Maximum Peak Particle Velocity
Steady State	0.02 Inches/Second
Impact	0.04 Inches/Second

B. The maximum particle velocity shall be the maximum displacement vector sums of 3 mutually perpendicular components, recorded simultaneously, and multiplied by the frequency in cycles per second. For purposes of this Land Development Code, steady state vibrations are vibrations that are continuous or vibrating in discrete impulses more frequent than 60.

Sec. 9.11 Animal Keeping

9.11.1 Keeping of Large or Small Domestic Animals

A. Where Permitted.

The keeping of large and small domestic animals is permitted outright only in the R-1 and IND zones.

(1) Standards Applicable to Keeping of Large or Small Domestic Animals

(a) The following ratios of area to animals apply:

i. Large domestic animals: Three animals per gross acre on irrigated land.

ii. Large domestic animals: One animal per gross acre on non-irrigated land.

iii. Small domestic animals: One animal per two thousand square feet of land.

(b) Animal Enclosure Setbacks

No structure or enclosure for animals other than fencing or grazing land may be located less than fifty (50) feet from either the centerline of any street or from any adjoining lot.

9.11.2 Keeping Household Pets

In all zones where dwelling units are allowed, small domestic animals are allowed to be kept as household pets. Up to an aggregate of 5 animals per dwelling unit is permitted. (Six or more dogs or cats constitute a kennel, and any number of large or small domestic animals that exceeds the allowed limits constitutes a zoo.) Small birds (canary, parakeet, etc.); small amphibian/reptile (turtle, lizard, etc.); rodent (rat, hamster, gerbil, etc.); and tropical fish and animals that are always housed entirely within the dwelling unit are excluded from the numerical limitations.

Sec. 9.12 Fencing and Other Standards for Certain Utility Uses

All public utility uses involving dangerous apparatus shall be surrounded by a chain link fence at least eight 8 feet in height, shall be and screened from view with evergreen trees or shrubs, shall observe a ten foot buffer and shall meet the performance standards of Sec. 9.10.

Sec. 9.13 Disposition of Cremated Remains

The disposition of cremated remains in a niche, columbarium or scattering garden is a permitted accessory use in connection with the operation of a religious institution, funeral parlor home and/or human cemetery.

Sec. 9.14 Landscaping and Screening *(TA 11-01)*

9.14.1 Purpose

A. The provisions of this section are intended to:

(1) Protect and enhance the visual appearance and natural beauty of the City of Hickory and its' ETJ by encouraging the preservation of existing trees and requiring the planting of new trees and vegetation;

(2) Protect property values by providing a transition between dissimilar land uses and/or zoning districts and minimizing the impacts of development on the community; and

(3) Provide ecological benefits including reduced stormwater runoff, decreased erosion, improved water quality, air quality benefits, creation of shade for cooling, and the protection of wildlife habitat.

9.14.2 Applicability

A. Landscape requirements involve the provision of plant materials and other screening and buffering techniques in the following situations:

(1) Along the perimeter of dissimilar land uses,

(2) Around open storage and mechanical equipment, and

(3) Inside and along the perimeter of parking areas.

B. Landscape requirements shall apply to the following activities:

(1) All new development, except as provided in Paragraph (c) below.

(2) All expansions or changes in use which result in an increase of more than twenty-five (25%) percent of existing floor and/or parking area shall be brought into full compliance for the entire project.

(3) All renovations to a principle structure where the total value of the renovations exceeds fifty (50%) percent of the buildings' value according to County tax records. The total cost of repairs shall be determined by the value of construction measured by all building permits issued within any period of eighteen (18) consecutive months. The full property shall be brought up to current standards.

C. Landscape requirements shall not apply to the following development:

(1) Single-family and two-family residences on single lots, and

(2) Parking provided underground or within structures

D. Additional landscape requirements may be required for projects within certain neighborhood overlay zones and NC zoning districts. Refer to those sections of the Land Development Code for further requirements.

9.14.3 Landscape Plan Required

A. The landscape plan shall be prepared and submitted at the time of application for a development permit. Landscape plans shall be drawn to scale, contain a north arrow, and include the following:

(1) Location of existing and proposed buildings, all driveway and parking lots, walkways and public sidewalks, and connections to existing street or adjacent lots.

(2) Location, type, size, and quantity of existing plant materials to be preserved and location of tree protection fencing (if applicable).

(3) Location of all existing and proposed overhead and underground utilities.

(4) Zoning designation and use of all adjacent properties.

(5) Location and description of all landscape improvements, including all perimeter landscape areas and perimeter and interior parking lot landscaping.

(6) Table of all plants used with botanical and common name, quantity and size of all proposed landscape material.

(7) Location of all other landscape improvements, including berms, walls, fences, courtyards, lights, and paved areas.

(8) Required open space, and all streams, wetlands, and associated setback buffers.

9.14.4 Tree Preservation

A. The preservation of existing trees on a site can improve the aesthetic quality of the site, improve property values, provide environmental benefits, and mitigate the impacts of development. Existing vegetation shall be preserved whenever feasible and must be preserved in certain circumstances as outlined below.

B. Where a natural perimeter buffer exists, it is to remain undisturbed, except for the removal of dead wood and invasive vines and plants. No limbing up is allowed and understory shall not be removed. The Planning Director may require the retention of other existing mature vegetation on a site wherever such vegetation contributes to required screening and buffering or for the preservation of significant trees.

C. Existing trees and wooded areas may be counted toward buffer and screening and parking area landscape requirements. Existing trees may be counted for fulfilling parking area requirements if they are located within 100 feet of the parking area. Existing trees shall be credited at the following rate according to the diameter measured at four and a half (4.5) feet above the ground:

Existing Tree Diameter	Tree Credit Earned
6” – 12”	2
13” – 18”	3
19” – 24”	4
> 25”	5

D. When using existing trees, they must be protected and undisturbed during the entire construction process using, at a minimum, the techniques proved in the City of Hickory Manual of Practice and as may be required by the City Arborist. Applicants shall seek the assistance of a professional urban forester or landscape architect to properly preserve

existing trees for credit. If protective measures are not used during construction, existing vegetation cannot be counted toward landscape requirements.

E. For all trees required by this Land Development Code, tree topping is prohibited. See Section 9.14.10 of the Land Development Code and the Manual of Practice for more information about tree topping and proper tree pruning.

9.14.5 Perimeter Landscape Buffer Requirements

A. A perimeter landscape buffer is a strip of land around the outer perimeter of those portions of a lot adjacent to other land uses that may only be occupied by screening, underground utilities, retention areas and landscape materials. If underground utilities need to be located along a property line where a buffer is required, the utility lines shall be located along the edge of the buffer. A wider buffer may need to be provided, if necessary, to accommodate required vegetation and utilities.

B. General Buffer Requirements

(1) Screening and buffering shall be required as outlined below and further described in the City of Hickory's Manual of Practice.

(2) Screening, such as hedges, fences or walls, as described, shall not be over four (4) feet tall within front yards unless otherwise expressly allowed in the Land Development Code.

(3) Where a natural buffer exists, it shall remain undisturbed, except for the removal of dead wood and invasive vines and plants. In cases where topography or other site conditions make it unfeasible to retain the natural buffer, a waiver of the requirements may be given by the Planning Director. No limbing up is allowed and understory shall not be removed. Additional trees and shrubs may be required to bring the natural buffer up to the full perimeter buffer requirements.

(4) All exposed areas of soil within the buffer area must be covered with mulch, groundcover vegetation or grass.

(5) Refer to Section 9.14.9 of the Land Development Code and the City of Hickory's Manual of Practice for plant specifications for recommended plant lists and planting diagrams.

(6) Buffer Types

(a) Ten-Foot Buffers

For buffers required to be ten (10) feet in width, screening shall consist of at least the following measures, together with any additional specifications which may be required as a condition of a development permit:

i. A row of canopy trees and/or large evergreen trees planted an average of thirty (30) feet on center; and

ii. One (1) understory tree or evergreen tree planted between each canopy tree; and

iii. Fifteen (15) shrubs, per 100 linear feet of buffer, interspersed among the trees, at least 75%, of which shall be evergreen. A mix of shrub species may be used to create visual interest and diversity (see Manual of Practice).

(b) Fifteen-Foot Buffers

For buffers required to be fifteen (15) feet in width, screening shall consist of at least the following measures, together with any additional specifications which may be required as a condition of a development permit:

i. A double, staggered row of evergreen trees planted no more than ten (10) feet apart; or

ii. A mixed buffer which for every 100 linear feet contains at a minimum:
   - four (4) canopy trees, spaced approximately every twenty-five (25) feet apart, and
   - four (4) understory trees or evergreen trees interspersed between the larger trees, and
   - fifteen (15) shrubs (at least 75% evergreen).

   A fifteen-foot mixed buffer shall be designed to form a densely planted semi-opaque visual buffer. Plants shall be spaced to cover the length of the entire buffer area. See the Manual of Practice for plant spacing.

(c) Thirty-Foot Wide Buffers

For buffers required to be thirty (30) or more feet in width, screening shall consist of at least the following measures, together with any additional specifications which may be required as a condition of a development permit:

i. A double, staggered row of evergreen trees planted no more than ten (10) feet apart; and

ii. four (4) canopy trees planted approximately every twenty-five (25) feet on center; planted on the outward-facing side of the property; or

iii. A mixed buffer which for every 100 linear feet contains at a minimum:
   - four (4) canopy trees, and
   - seven (7) understory trees or evergreen trees, interspersed between the larger trees, and
   - Thirty (30) shrubs (at least 75% evergreen).

iv. A mixed buffer shall be designed to form a densely planted, substantially opaque visual buffer. Plants shall be spaced to cover the full length of the buffer area. See the Manual of Practice for plant spacing.

(d) Fences, Walls, and Berms

When a buffer is required, opaque wooden fences, walls and/or berms may be substituted for half of the vegetation requirements outlined above. If a fence is provided, the required width of the buffer shall be reduced by 33 percent.

i. All fences shall be a minimum of six (6) feet high with the finished side facing outwards.

ii. Walls shall be stone or brick-faced and shall be six (6) feet high, unless built in combination with an earthen berm.

iii. If provided, berms shall not exceed a slope with a maximum rise of one (1) foot to a run of two (2) feet, a maximum height of four (4) feet and a maximum width of forty (40) percent of the required buffer width. All berms shall be stabilized with ground cover (mulch or vegetation) that provides permanent slope retention.

C. Buffer Matrix

The type of buffer to be provided along the side and rear property lines is described below. The type of landscaping required varies depending upon the intensity of proposed use. In the case of mixed-use projects or vacant land the most intense use shall be used to determine the buffer type. Land use groups are determined in Subsection D.

Proposed Use	Abutting Use Buffer Type					
	Single and Two Family	Multi-Family		Group 1	Group 2	Group 3
		2–6 UPA	7+ UPA			
Multi-Family (<6 UPA)	10					
Multi-Family (7+ UPA)	10	10				
Group 1 Use	10	10	10			
Group 2 Use	15	15	15	10		
Group 3 Use	30	30	30	30	15	

UPA = Dwelling Units per Acre

D. Land Use Groups

Land uses shall be assigned to land use groups in accordance with the standards of this section. In the case of uses not listed, the Planning Director shall make a determination of the group appropriate for such uses. In reaching the determination, the Planning Director shall be guided by the requirements for similar uses having comparable impacts.

Land Use Groups	
Group 1	
Daycare	Parks and Playgrounds
Cemetery	Religious Institutions
Community Recreational Uses	Schools
Group 2	
Agriculture	Medical Centers
Amusement Facilities	Mini-storage Facilities
Drinking Establishment	Office and Personal Services
Colleges	Public Facilities
Commercial Parking	Retail Sales and Service
Cultural Facilities	Vehicle Repair
Marina	Wireless Communication Facilities
Group 3	
Airports	Manufacturing and Production
Adult Business	Mining

Detention Facilities	Open Storage, Principal Use
Industrial Service	Railroad Yards
Junkyards and Recycling Facilities	Warehouse and Freight Movement
Kennels	Waste Related
Major Event Entertainment	Wholesale Sales

9.14.6 Other Required Screening

A. Screening of Open Storage

Permitted open storage areas, as a principal or accessory use, shall be screened from view of any major and/or minor transportation roadway as shown on the Hickory by Choice Future Land Use and Transportation Plan Map and from all residentially zoned properties as described in Sections 6.2.18 and 6.3.5.

B. Screening of Mechanical Equipment

All nonresidential uses shall screen from view from public places and neighboring properties if in a different Land Use Group, all mechanical equipment such as, but not limited to, ground or roof-mounted air conditioners or pumps through the use of features such as berms, fences, false facades or dense landscaping.

9.14.7 Landscape Requirements for Parking Areas

A. General Requirements

(1) All parking areas with six (6) or more spaces, except those located entirely underground or within structures, shall comply with the requirements of this section.

(2) Parking area shall be defined as all vehicular use areas, including all parking spaces, vehicle storage areas, access and maneuvering areas.

(3) Planted areas next to pedestrian walkways, sidewalks, streets, private driveways, parking aisles, or the approach to any street intersections shall be maintained or plant material chosen to maintain a clear zone. See the Manual of Practice for site triangle requirements.

(4) Refer to Section 9.14.9 for plant specifications and to the Manual of Practice for recommended plant species and other information.

(5) Additional parking area landscape standards are required for developments within center and several overlay districts. Refer to those sections for additional requirements.

(6) When calculating the number of trees and shrubs required, any fraction of a number shall be rounded up to the next whole number.

B. Perimeter Parking Area Buffer Requirements *(TA 15-01)*

(1) Parking areas shall be separated and screened from all adjoining properties, streets, and rights-of-way by a landscape buffer. The buffer area shall be at least five (5) feet in width along all street rights-of-ways and the perimeter of the parking area.

(2) Within the buffer area, canopy trees must be planted an average of thirty (30) feet on center and shrubs must be planted an average of every five (5) feet on center.

Along road frontages, shrub spacing shall be every three (3) feet on center in order to form a continuous hedge.

(3) Parking areas shall be separated from the exterior wall of a structure by a raised, paved pedestrian sidewalk or a landscaped buffer strip at least three (3) feet in width.

(4) Driveways into parking areas shall be bordered by a landscape buffer strip at least five (5) feet in width along each side of the driveway. At a minimum, the driveway landscape buffer shall include one (1) large canopy tree for every thirty (30) feet of linear drive or two (2) understory trees for every twenty (20) feet of linear driveway entrance. The plant materials may be grouped as an entrance planting rather than a linear border.

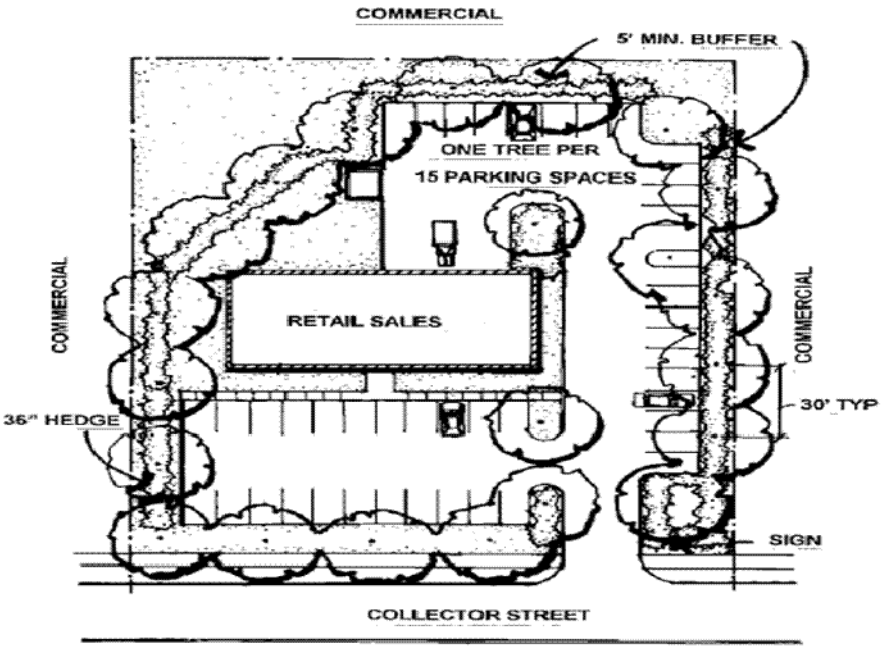


Figure 10- 1 Parking Area Buffers (CC-2, OI, C-2, C-3 District)

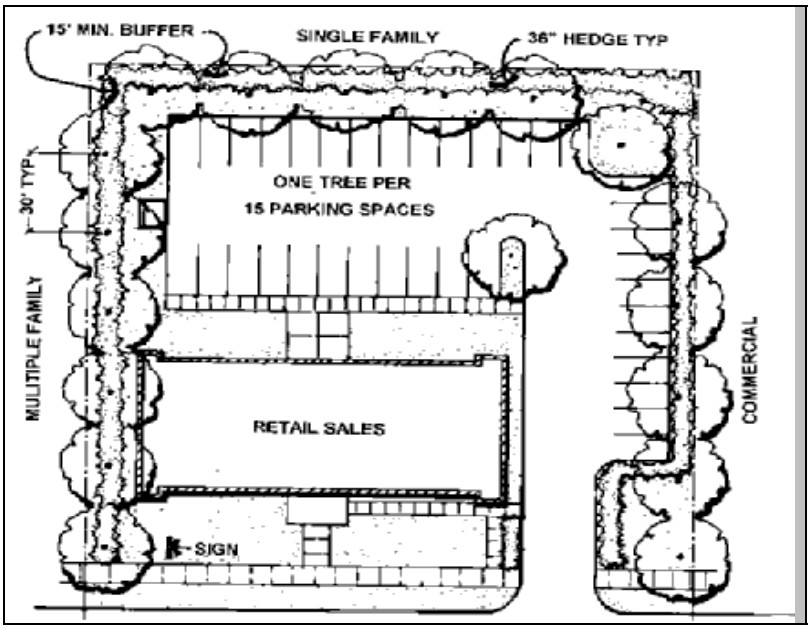


Figure 10-2 Parking Area Landscaping (NC or CC-1 district)

C. Interior Parking Area Landscape Requirements – New Parking Areas

(1) All rows of parking shall be terminated by a canopy tree planted within a landscape island. The landscape island shall be a minimum dimension of six (6) feet by eighteen (18) feet for single-loaded parking rows and six (6) feet by thirty-six (36) feet for double-loaded parking rows. Trees planted within perimeter landscape strips may be used to satisfy this requirement.

(2) One (1) canopy tree shall be required for every fifteen (15) parking spaces, and one (1) shrub shall be provided for every ten (10) parking spaces required. All vehicular parking spaces must have at least one (1) tree within sixty (60) feet of each parking space.

(3) At least seventy-five (75) percent of all trees required by this section shall be canopy trees as listed in the Manual of Practice. When planting under overhead utility lines, two (2) understory trees must be substituted for every required canopy tree. Refer to the Manual of Practice for a list of trees that are approved for planting under utility lines.

(4) For parking areas over 40,000 square feet, a minimum ten (10) foot wide continuously planted median shall be installed along the length of the longest interior parking row, to break up large areas of pavement. Parking areas over 80,000 square feet shall require two of the described medians. This does not apply to vehicular sales or rental areas.

(5) Landscape islands and planting areas shall be protected from vehicular encroachment by curbing or wheel stops at least 6 inches in height.

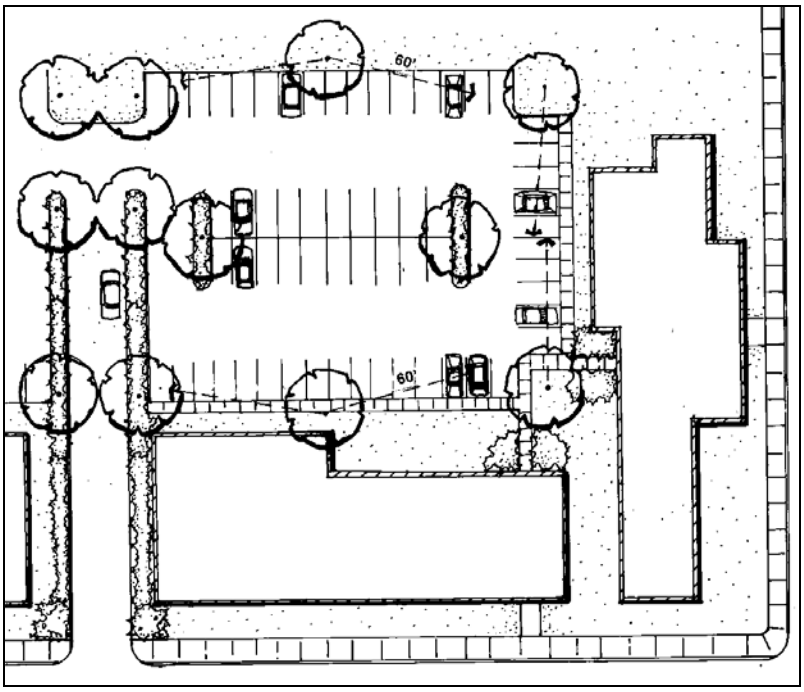


Figure 10-3: Interior Parking Area Landscaping

D. Interior Parking Area Landscape Requirements – Existing Parking Areas

For expansion or renovation projects that are required to follow landscape requirements on all or part of the site (per Section 9.14.7), the standards as outlined in Paragraph (c) above are applicable. However, the required parking may be reduced by 20 percent to allow for the provision of interior landscaping. Under circumstances where the application of these requirements is infeasible or unworkable, the applicant may submit an alternative landscape plan, as outlined in Section 9.14.8.

9.14.8 Alternative Methods of Compliance

A. The Planning Commission, by means of a Special Use Permit in accordance with Sec. 2.4, shall have the authority to waive or reduce the requirements of Sec. 9.14, Landscaping and Screening provided that the alternative landscape plan meets or exceeds the objectives of this Land Development Code.

B. Perimeter buffer requirements between properties may be reduced or eliminated by a legal agreement between the property owners and the City of Hickory provided that the agreement runs with the land and is recorded with the appropriate county's Register of Deeds.

9.14.9 Plant Specifications

A. Plant Species

Plants shall be chosen from the recommended plant species lists in the Manual of Practice. Plants which are not on the list may be used if approved by the Planning Director upon a showing that the proposed plants will likely achieve the objectives of this section as well as or better than plants listed in the Manual of Practice. Invasive, exotic plant species (see chart in Manual of Practice) shall not be used to meet the landscape requirements of this Land Development Code.

B. For the purpose of measuring required canopy trees for this section, the caliper of a tree is the diameter measured six (6) inches above the ground, if that measurement does not

exceed four (4) inches. If the measurement does exceed four (4) inches, the measurement is taken twelve (12) inches above the ground.

C. Minimum Plant Size Requirements

(1) Canopy trees shall be two and one half (2.5) inches in caliper and a minimum of eight (8) feet in height at time of planting.

(2) Understory trees shall be at six (6) feet in height at time of planting. Understory trees may be single or multi-stemmed.

(3) Only certain understory trees shall be planted under overhead utility lines. An approved plant list is in the Manual of Practice. When overhead utility lines are present, two (2) understory trees shall be planted for every one (1) canopy tree required.

(4) Evergreen trees shall be a minimum of five (5) feet in height at planting.

(5) Shrubs (evergreen or deciduous) required for parking areas shall be a minimum of a three (3) gallon container with a height of at least twenty-four (24) inches at time of planting.

(6) Shrubs required as part of a ten (10) foot or greater buffer shall be a minimum of a five (5) gallon container with a height of at least thirty-six (36) inches at time of planting.

D. Ground Cover

All ground surfaces, not otherwise required to be paved, shall be maintained with ground cover such as grass or mulch.

E. Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, published by the American Association of Nurseryman. Plants must be healthy, well-formed, and free of disease and insects.

9.14.10 Maintenance and Pruning

A. It shall be the responsibility of the property owner, or in the event of a property transfer, the subsequent property owner to maintain and ensure the survival of the plant material in perpetuity. Plants and trees that do not survive planting or for some reason perish due to injury, disease and/or insect infestation must be replaced during the first planting season following the death of the plant(s) in accordance with the specifications of this Land Development Code.

B. Tree topping shall be prohibited on all trees that are required by the provisions of this Land Development Code, including perimeter buffer trees and parking lot landscaping. Topping is the severe cutting back of limbs larger than three (3") inches in diameter to stubs within the tree's crown so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees that interfere with or are imminent threats to utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Planning Director. All trees and shrubs shall be pruned in accordance with American National Standards Institution (ANSI) Standards. For more information about tree topping, refer to the City of Hickory Manual of Practice.

C. If plants or other screening materials are removed to repair underground utilities they must be replaced at the next appropriate growing season at the owners' expense.

9.14.11 Performance Guarantee

A. Landscape and tree planting requirements may be deferred to an appropriate planting season with the approval of the Planning Director. This provision is meant to allow for seasonal extremes in weather and soil conditions that may be incompatible to landscaping. It is not, however, meant to be used in any way to circumvent the intent and purpose of the Land Development Code.

B. No Certificate of Occupancy shall be approved by the Planning and Development Department until:

(1) The required landscaping is completed in accordance with the approved plan; or

(2) A bond or certified check, payable to the City of Hickory, in the amount of 125% of the estimated cost to assure installation of the required landscaping.

C. An irrevocable letter of credit issued by a bank in the form approved by the City Attorney may be accepted in lieu of bond under the terms and conditions applicable to bonds in Subsection (b) above.

D. No surety or portion thereof, as provided for in this section shall be released by the City until all landscaping has been installed, inspected and approved.

E. Upon completion of the required landscaping, the surety shall be returned to the applicant.

9.14.12 Permit Required for Pruning, Planting and Removal of Trees on Public Property

A. Maintenance

(1) No person shall cut, prune (including the root system), spray or treat any tree or shrub having its trunk in or upon any public property or contract with another person to perform such acts without first obtaining a written permit from the Planning Director, or his designee, and without complying strictly with the provisions of the permit and of this Ordinance.

(2) Public and private utilities, including the City of Hickory, cable TV, natural gas, electric and telephone companies, may submit written specifications they will follow for the review and approval of the City Arborist. The Planning Director may issue a city-wide permit upon the recommendation of the City Arborist. Upon receiving approval, a utility shall not be required to obtain a permit for routine trenching and pruning operations affecting trees or shrubs having their trunks in public rights-of-way or property as long as such work is done in strict accordance with the approved specifications. Failure to comply with the approved specifications is a violation of this Ordinance.

B. Removal

(1) Requests for removal of trees shall be handled on an individual permit basis.

(2) The city shall have the right to remove trees, plants and shrubs within the lines of all streets, rights-of-way and public places, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public places subject to recommendation from the City Arborist and approval of the Planning Director.

(3) No persons shall plant, or contract with another to plant, any tree or shrub in any public street right-of-way or public place without a permit from the city.

(4) Individual permits will not be required for the city and/or the North Carolina Department of Transportation projects as long as tree preservation and protection requirements are included in the project.

9.14.13 Injuring Trees or Shrubbery on Public Property

A. Any person or company performing, or contracting with another to perform construction work (including the operation or storage of equipment or materials) within the drip line of any tree or shrub in or on any public right of way, City-owned property or other public property controlled by the City (collectively referred to as "public property") shall place the appropriate guard or protective barrier around the plant to the protect the drip line of the tree or shrub. If the activities require the trimming, pruning or removal of any tree located on public property, a written permit shall be obtained from the Planning Director after verification of approval from the City Arborist.

B. It shall be unlawful for any person to attach any object including but not limited to rope, wire, chain, or sign to any tree or shrub on public property or rights-of-way, or to the guard of stake intended for the protection of such tree except for the purpose of protecting it or the public.

C. It shall be unlawful as normal practice, except as described in this section, for any person to top any street tree, park tree or other tree on public property or rights-of-way. Topping is the severe cutting back of limbs larger than three (3) inches in diameter to stubs within the tree's crown so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees that interfere with or are imminent threats to utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Planning Director.

D. All stumps of trees on public property or rights-of-way shall be removed so that the top of the stump shall not project above the surface of the ground.

9.14.14 Board

The Planning Director may consult with the Community Appearance Commission in the event that conflict occurs or interpretation is required in the application of this Ordinance. The Community Appearance Commission will act in the capacity of a Tree Board. The Community Appearance Commission may meet in regular session or they may form a sub-committee to act in their behalf. It shall be the responsibility of the Community Appearance Commission to review specifications and plans for the care, preservation, pruning, planting and removal of trees in City-owned areas. In addition the Community Appearance Commission may investigate available grants, loans, or contributions from other governmental agencies, public or private corporations or individuals.

Sec. 9.15 Fire Protection

The provisions of Sec. 8.11 and Chapter 11 of the Hickory City Code of Ordinances shall apply, to the extent applicable, to all development within the City of Hickory's Regional Planning jurisdiction.

Sec. 9.16 Property Maintenance

This section shall apply to all properties within the Hickory Regional Planning jurisdiction.

9.16.1 Construction

All new structures shall be designed, constructed and maintained in accordance with the following standards: all structures shall comply with applicable provisions of this Land Development Code and the North Carolina State Building Code as adopted by the NC State

Building Code Council, and the City of Hickory Minimum Housing Code and such other building ordinances as may be adopted and or amended by the City from time to time

9.16.2 Maintenance *(TA 14-01)*

All structures erected, occupied or continued under this Land Development Code shall be maintained in good structural condition, in compliance with all applicable codes and provisions of this Land Development Code. Specifically

A. All existing structures shall comply with applicable provisions of this Land Development Code and the following codes including but not limited to the: North Carolina State Building Code Volume IX – Existing Buildings, the requirements of the code under which the building was built and the City of Hickory Minimum Housing Code.

B. A structure shall have no more than 20 percent of its exterior roofs, walls and other elements of the structure covered with disfigured, cracked, or peeling surface materials for a period of more than 30 consecutive days.

C. A structure shall not be maintained with broken windows, holes in exterior surfaces including roofs and walls, ripped awnings, loose materials, loose elements or other obvious exterior defects for a period of more than 30 consecutive days. Exterior materials shall form a weather tight surface with no holes, excessive cracks or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted or intended for human occupancy or use.

D. A structure shall not have weeds, trees, vines, or other vegetation growing upon it greater than 12 inches in height in an untended manner for a period of more than 30 consecutive days.

E. All site lighting, parking areas, fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, stormwater management areas and systems and other improvements and appurtenances shall be maintained in working order and reasonably free of defects.

F. The owner or tenant shall maintain all required landscape areas, trees and shrubs in a neat and healthy condition free of diseased, dead, or bare areas and free of debris and weeds greater than 12 inches in height.

G. The owner or tenant shall maintain all landscaped areas in a manner consistent with the requirements of this Land Development Code. Dead plants shall be replaced as necessary to maintain compliance with the regulations contained herein.

H. The property owner shall maintain the property and the exterior portions of any structures thereupon free of accumulations of debris, junk, garbage, or trash including but not limited to discarded furniture and other household goods, inoperative appliances, inoperative vehicles, and inoperative equipment except within approved dumpsters or trash enclosures, enclosed storage areas or on land approved for the operation of a junk yard.

I. All awnings both existing and newly erected shall be kept in good physical repair. All components of the awning including canopy, braces and anchors shall be maintained and kept free from cracks, rips and other physical damage. Exterior damages to an awning shall not be permitted for a period of more than 30 consecutive days.

Sec. 9.17 Underground Utilities

9.17.1 Underground Utilities – Purpose and Intent

The appearance of the streets in the Hickory Regional Planning Area is an important part of the image of the City of Hickory. Aerial utilities add to the visual clutter along these streets and thereby detract from the aesthetics of the community. It is the intent of the City of Hickory to require all new utility distribution and service lines in the community to be placed underground.

9.17.2 Definitions

For purposes of this section the following definitions shall apply:

A. Distribution line: Any utility line less than 300 feet in length providing connection between transmission lines and service lines to a new building, parcel or subdivision. Distribution line may also include feeder lines and sub-feeders.

B. Service Line: Any utility line that connects a distribution line to an end user. Service line may also include tap lines and service drops.

C. Transmission line: Any utility line intended to move large qualities of utility service from generation sources to distribution lines. These lines do not provide direct service to adjoining property.

9.17.3 Permit Required for Utility Crossings of Public Streets and Other Property

All new utility distribution line and service line crossings of public rights of way and property shall be placed underground.

A. No new public utility distribution or service line shall cross any public right of way within the Hickory Regional Planning Area without first obtaining a written permit from the City Engineer, or his designee, and without complying strictly with the provisions of the permit and of this Ordinance.

B. Public utilities including: cable TV, natural gas, electric and telephone companies or any other company that provides a commodity through a system of transmission that remains in place to provide the item or service created to ultimate consumers, may submit written specifications they will follow for the review and approval of the City Engineer. The City Engineer may issue a city-wide permit. Upon receiving approval, the service provider shall not be required to obtain a permit for routine underground crossings of public rights-of-way or property as long as such work is done in strict accordance with the approved specifications. Failure to comply with the approved specifications is a violation of this Ordinance.

C. All distribution systems, whether wire, pipeline, coaxial, fiber-optic cable or other, shall be underground unless unfeasibility of such installation has been documented and the documentation accepted as satisfactory by the Planning Director.

D. In making this decision on the adequacy of the documentation and appropriateness of the request, the Planning Director shall consider the following factors:

(1) Terrain;

(2) Impacts on other customers,

(3) Load characteristics;

(4) Reliability;

(5) Accessibility;

(6) System flexibility;

(7) Equipment availability;

(8) Safety; and

(9) Timing.

(10) Excessive conflicts with other utilities

9.17.4 Underground Utilities – On-site Service

Within any new development, all utilities installed to serve the project shall be placed underground without expense to the City. Such utilities shall be underground from the point they enter the site and shall include but not be limited to pad mounted or subterranean transformers, secondary electrical, telephone, fiber optic, and cablevision distribution lines. Underground secondary electrical services shall originate from a ground mounted or subterranean electrical transformer. Ground mounted transformers shall be located off the public right-of-way.

9.17.5 Underground Utilities – Off-site Service

All distribution lines or service lines providing direct customer service to an individual lot or subdivision shall be brought to the site underground including crossing public rights of way or property without expense to the City. Such lines shall not be required to be placed underground, however, if the distance of such placement will exceed 300 feet.

9.17.6 Underground Utilities – Required Road Improvements

All existing service lines or distribution lines providing direct customer service to an individual lot or subdivision running parallel to and installed or relocated in conjunction with construction of a new roadway or widening of an existing roadway to service the development which involves the relocation of power lines and poles shall be located underground.

9.17.7 Exemptions

Aerial crossings of public rights of way shall be permitted for service lines providing electrical service to a single lot/single family home. However, service lines from the right of way to the home shall be placed under ground.

Article 10 **Signs**

Sec. 10.1 General

10.1.1 Purposes

The purposes of these sign regulations are to:

A. Permit the effective use of signs as a means of commercial and noncommercial communication;

B. Maintain and enhance the aesthetic environment and the ability of the city to attract sources of economic development and growth;

C. Maintain pedestrian and traffic safety and minimize the distractions, hazards and obstructions caused by signs;

D. Minimize the possible adverse effects of signs on nearby public and private property;

E. Enable the fair and consistent enforcement of these sign regulations; and

F. Ensure that the constitutionally guaranteed right of free speech is protected.

10.1.2 Applicability

Unless otherwise expressly exempted, the sign regulations of this article shall be binding upon every owner of a building, every lessee, and every person responsible for or who causes the construction, repair, relocation, or alteration of any sign in the City of Hickory. Signs may be erected, placed, established, painted, created or maintained only in conformance with the provisions of this article.

10.1.3 Permits Required

Unless otherwise expressly exempted, no sign may be erected or structurally altered until a Zoning Compliance Permit has been obtained in accordance with Sec. 2.6.

10.1.4 Computations and Measurements

A. Number of Signs

For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of units, where strings of lights are used, or where there is a reasonable doubt about relationship of elements, each element or light shall be considered to be a single sign. For back-to-back signs or those with an interior angle no greater than 15 degrees, both surfaces shall be considered to be a single sign. In the case of v-type or double-faced signs with an interior angle greater than 15 degrees, the entire surface shall be considered to be a single sign.

B. Sign Area of Individual Signs

The surface area of a sign shall be computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including any blank masking border (a plain strip, bearing no advertising matter around the edge of a sign), frames, display or identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. The width of the masking border or sign frame structure shall not extend beyond the maximum surface area more than 6 inches.

C. Area of Double-Faced Signs

Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 15 degrees or less, only 1 display face shall be counted in computing sign area. If the 2 faces of a double-faced sign are of unequal area, the area of the larger sign face shall be counted as the sign's area. In the case of signs with an interior angle greater than 15 degrees, cylindrical signs, signs in the shape of cubes, or other signs that are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces shall be included in computations of sign area.

D. Embellishments

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material shall be computed separately as part of the total surface area of the sign.

E. Height and Clearance

The overall height of the sign or sign structure is measured from the normal grade to the highest point of the sign or sign structure (see Figure 10-1). Clearance is measured from the normal grade to bottom of the sign structure enclosing the sign face. Normal grade shall be construed to be the existing grade prior to construction, or newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade cannot reasonably be determined or where the normal grade is below the grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street.

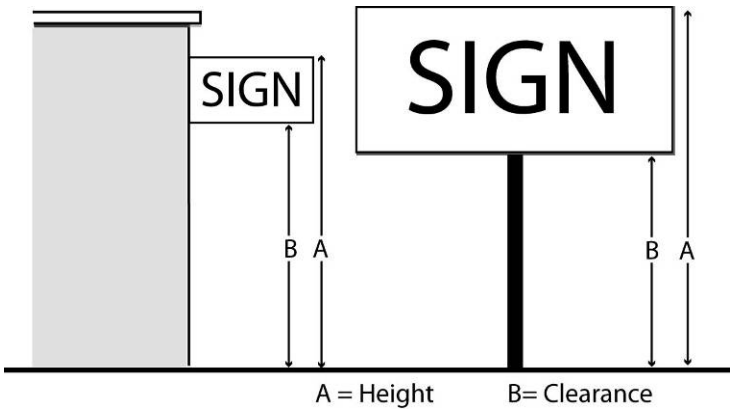


Figure 10-1: Sign Heights and Clearance

10.1.5 Signs Exempt from Regulation

The following signs shall be exempt from regulation under this article:

A. externally illuminated or non-illuminated signs not exceeding 2 square feet in area, not of a commercial nature and bearing only property identification numbers and names, post office box numbers and names of occupants of the premises;

B. historic markers erected by a governmental body;

C. legal notices, identification and informational signs and traffic directional signs or any sign erected by or on behalf of a governmental body;

D. integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

E. signs directing and guiding traffic on private property, but which bear no advertising matter and do not exceed 4 square feet in area and have a maximum height of 2 feet;

F. incidental signs used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to, drive-thru window menu boards, signs of automatic teller machines, gas pumps, express mail drop boxes, vending machines or newspaper delivery boxes, or signs painted or permanently attached to currently licensed motor vehicles that are not parked or located so as to function as a sign;

G. official flags, emblems, or insignia of corporate, professional, fraternal, civic, religious, or educational organizations limited to one per lot not exceeding 5 feet by 8 feet and located on the same lot as the organization; and

H. official flags, emblems, or insignia of any government.

I. Any flag displayed on residential property.

Sec. 10.2 Prohibited Signs

10.2.1 The following signs and attention-getting devices shall be prohibited:

A. Any sign erected or placed without a proper permit or otherwise not in compliance with these regulations;

B. Portable signs;

C. Roof signs (see Section 10.5.1B(4);

D. Balloons and inflatable signs;

E. Search lights or signs with flashing, moving, rotating, blinking or varying intensity of light or color;

F. Banners, flags, and streamers, except as otherwise allowed herein;

G. Signs painted or attached to any trees, rocks, or other similar organic matter;

H. Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except traffic-control signs;

I. Signs that by their position, illumination, size, shape or color, obstruct, impair, obscure, or interfere with traffic signs, signals, or devices;

J. Signs that cause glare onto traffic or adjacent property;

K. Signs that emit audible sound, odor, or visible matter such as smoke or steam;

L. Signs that exhibit obscene material, including, but not limited to, specified sexual activities and specified anatomical areas as defined in Article 14;

M. Signs that obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, or ingress/egress that would cause a violation of building codes;

N. Signs that encroach on a required Sight Triangle;

O. Signs that resemble any official signage or markers and that, by reason of content, location, position, shape or color, may be reasonably confused with or construed as traffic-control devices;

P. Signs within public rights-of-way or on public property, except as otherwise expressly permitted;

Q. Strings of lights not permanently mounted to a rigid background, unless otherwise expressly exempted or allowed under this article;

R. Illuminated signs within any residential district; and

S. Vehicular signs.

Sec. 10.3 Sign Location

10.3.1 Sight Triangles

All signs shall comply with the Sight Triangle standards Sec. 9.4.

10.3.2 Right-of-Way

Unless otherwise expressly stated in this Land Development Code, all signs shall be located outside the public right-of-way.

10.3.3 Vehicle and Pedestrian Area Clearances

When a sign extends over an area where vehicles travel or are parked, the bottom of the sign structure must be at least 14 feet above the ground. When a sign extends over a sidewalk or other area accessible to pedestrians, the bottom of the sign structure must be at least 9 feet above the ground.

Sec. 10.4 Alternative Sign Plan

The Planning Director may approve alternative sign plans to provide for flexibility in the application of sign regulations. Such plans are intended to allow property owners to address unique circumstances affecting their property such as excessive setbacks or topography and to encourage the removal or replacement of non-conforming signs. The Planning Director shall find that the alternative sign plan adheres to the purpose and intent of the regulations contained herein and that such plans result in the reduction of the total number of signs allowed or the total amount of sign area allowed, while allowing for reasonable exposure to the adjoining rights of way. Once approved, the alternative sign plan shall be used to guide the issuance of all sign permits related to the development in the future.

Sec. 10.5 Signs in Commercial, Office & Institutional and Industrial Districts

The following standards shall be used to regulate the installation of all wall signs, ground mounted signs, and subdivision identification signs in all commercial, office & institutional and industrial zoning districts.

10.5.1 Wall Signs

The following standards shall be applied to wall signs in commercial, office & institutional and industrial zoning districts:

A. Maximum Area and Number. *(TA 12-01)*

(1) Wall signage shall be limited to a maximum size of two (2) square feet of area per each linear foot of primary building wall or bay width, not to exceed three hundred (300) square feet.

(2) Buildings with primary walls in excess of one hundred fifty (150) linear feet shall be allowed wall sign area equal to fifteen percent (15%) of the total area of the primary wall face.

(3) If a property has frontage on more than one public street, internal shopping center driveway or is located at the end of a multi-tenant shopping center, additional wall signage on the secondary walls shall be permitted subject to the following standards:

(a) Additional wall signage shall be permitted only if the architectural treatment of the primary building wall is extended to include the wall upon which the additional signage is to be placed.

(b) Additional wall signage shall be permitted at a maximum of one (1) square foot per each linear foot of primary building wall or bay width, not to exceed one hundred fifty (150) square feet.

(4) The maximum number of signs permitted on the primary building wall shall be three (3). On secondary walls the maximum numbers of permitted signs shall be one (1).

B. Mounting

Wall signs shall be mounted consistent with the standards listed below:

(1) Equipment

Wall signs shall be mounted to conceal all mechanical or electrical equipment.

(2) Projection

Wall signs shall not project more than twenty-four (24) inches from the surface to which they are attached.

(3) Building façade

Wall signs shall be mounted parallel to the building facade.

(4) Extensions

Wall signs shall not extend above or below the edge of any wall or other surface to which they are mounted. Wall signs shall not be erected, constructed, or maintained upon or above the roofline of any building. This shall not preclude the placement of a wall sign against a mansard of a building providing the sign face is horizontally parallel to the building wall and does not extend either above the highest point or below the lowest point of the mansard to which it is affixed.

C. Other wall signs

An awning, canopy, or mansard may be used for the placement of the allowable square footage for wall signs.

D. Projecting signs in the C-1 zoning district *(TA 11-01)*

In lieu of a free standing sign, properties in the C-1 zoning district may provide one (1) sign that is mounted perpendicular to the surface to which it is attached.
Projecting signs are subject to the following standards:

(1) If a projecting sign is placed on the property, no free standing sign shall be permitted.

(2) The building to which the sign is attached must have a front setback of less than ten (10) feet.

(3) The sign shall not project more than thirty-six (36) inches from the surface of the wall to which it is attached.

(4) The sign shall not exceed thirty-two (32) square feet in area.

(5) The sign shall be mounted to conceal all mechanical or electrical equipment.

(6) The sign shall not be extend above below the edge of any wall or other surface to which it is mounted. Projecting signs shall not be erected, constructed, or maintained upon or above the roofline of any building.

(7) The sign shall maintain clearance of at least nine (9) feet above any pedestrian walkway

10.5.2 Free Standing Signs (TA 11-01, 12-01 & 14-01)

The following requirements shall apply to all signs within all commercial, office & institutional and industrial zones.

Free Standing Sign Regulations			
Zoning District	Height (feet)	Maximum Number	Area (Square Feet)
C-2, C-3, and IND	20	1) 1 per principal building, 3 per site 2) 1 per public vehicular right-of-way frontage (street not driveway)	Two (2) sq. ft. per 1 linear foot of building frontage, with no single sign over 150 sq. ft.
NC, CC-1, CC-2, OI, and C-1	10	1) 1 per principal building and 3 per site 2) 1 per public vehicular right-of-way frontage (street not driveway)	60 sq. ft. per sign (120 total)

A. Setbacks

Freestanding signs shall be maintained at a minimum five (5) feet setback from all property lines.

B. Sign Copy

Freestanding signs may advertise only businesses or tenants located upon the subject property.

C. Separation

Free standing signs shall be located a minimum distance of one hundred (100) lineal feet from any commercial or industrial center identification sign or any other monument sign.

D. Landscaping

All freestanding signs shall be landscaped around the base of the sign to ensure that the structure blends in with the site and the character of the overall landscape plan. The area of landscaping shall not be less than the area of the sign face.

E. Installation

All free standing signs shall be ground mounted or supported by decorative supports. For purposes of these regulations, decorative supports shall mean at least 2 support members that are architecturally compatible with the principal structure on the site (no exposed

pipes, posts or other support members allowed). In lieu of 2 decorative supports a single support at least 1/3 the width of the sign may be used.

10.5.3 Window Signs *(TA 11-01)*

A. Signs shall be allowed on the inside or outside of window glass of non-residential properties provided that they cover no more than 33 percent of the gross glass area on any one side of the buildings and are not separately illuminated.

10.5.4 Subdivision/Project Identification Signs

A. Subdivision/project identification signs may be located within the required front setback at the entrance of a subdivision/project road, provided the location of such marker is outside the required sight triangle and the normal maintenance limits. Such signs shall be subject to the following standards:

B. Two (2) signs shall be permitted for each major street intersection, with a maximum of two (2) intersections permitted for any subdivision or project.

C. Residential subdivision/project identification signs, shall not exceed 16 square feet in size and 6 feet in height. For nonresidential subdivision/project identification signs, the standards of Sect.10.5.2 shall apply, provided that nonresidential subdivision name markers shall not exceed 40 square feet in area.

D. Subdivision/project identification signs in nonresidential districts shall not list individual occupants of the subdivision or project.

10.5.5 Campus and Shopping Center Directional Signage *(TA 11-01)*

Such signage shall be permitted when a site contains more than one tenant or principal building provided that the following criteria are met:

A. The sign shall be placed at least 5 feet from any public right of way.

B. Such signs shall not exceed sixteen (16) square feet in area and six (6) feet in height.

C. Such signs may contain business names or logos with arrows or other directional information but shall not contain any commercial message.

D. Such signs shall not be separately illuminated.

Sec. 10.6 Signs in Residential Zoning Districts

Unless otherwise expressly stated in this Land Development Code, The maximum number, area and height of signs within residential zoning districts shall be regulated in accordance with the following table of standards:

Zoning **District**	**Maximum Number of Signs Per Lot**	**Maximum Sign Area (square feet)**	**Maximum Height (feet)**
R-1 thru R-4	1 per road frontage	32	6
One wall sign and one monument sign are allowed provided that the total sign area does not exceed 32 square feet for all non-residential uses allowed. No signs are allowed for residential uses including home occupations except as otherwise provided herein.			

Sec. 10.7 Off-Premise Signs (Billboards) *(TA 14-01)*

No new off premise signs shall be allowed. Existing signs (non-digital and non-LED) may be replaced subject to compliance with the following:

A. Signs located within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems of North Carolina shall comply with the requirements of G.S. Chapter 136, Article 11, "Outdoor Advertising Control Act," and any regulations established by the North Carolina Department of Transportation.

B. Pursuant to G.S. § 136-129.1, signs located more than 660 feet beyond the nearest edge of the interstate or primary highway systems of North Carolina which are erected or maintained so as to be read from an interstate or primary highway shall be limited to directional and other official signs and notices and on-premises advertising.

C. The maximum permitted area shall be 300 square feet for all off-premise signs.

D. The maximum height of an off-premise sign shall be 35 feet or 35 feet above the elevation of the pavement adjacent to the off-premise sign, whichever is higher.

E. Off-premise signs shall observe the setback requirements of the underlying zoning district, provided that if structures on adjacent lots are set back from the front lot line by more than the required front setback, off-premise signs shall be setback at least as far as the adjacent structures.

F. Off-premise signs shall be separated from other structures on the same lot by a distance of at least 20 feet.

G. Off-premise signs shall not be permitted within 400 feet of any residential area, park, school, hospital, sanitarium, cultural facility, cemetery, church, synagogue, nursing home, college, university or technical college. The 400-foot distance shall be measured along the street right-of-way adjacent to the district or use.

H. Roof-mounted off-premise signs are prohibited.

I. LED, solid-state or digital billboards and signs are prohibited. No existing billboard may be converted to a LED or digital display.

J. Off-premise signs shall be limited to one per lot.

K. The minimum horizontal separation for off-premise signs shall be as follows:

(1) Off-premise signs on lots or parcels adjacent to Federal Aid Primary Highways (US 321 and I-40): 500 feet between off-premise signs on the same side of the right-of-way and 500 feet for off-premise signs on opposite sides of the right-of-way.

(2) Off-premise signs on all other lots or parcels: 750 feet between off-premise signs on the same side of the right-of-way and 375 feet on opposite sides of the right-of-way.

(3) Off-premise sign shall be a minimum of 500 feet from the use, product or service to which it refers. All distances shall be measured along the centerline of the street adjacent to the off-premise sign.

Sec. 10.8 Political Signs

Non-illuminated political sign(s) may be displayed on any private property. Such sign(s) shall not exceed 16 square feet in area individually or in total and are permitted in required front yards. Such sign(s) shall be placed no more than sixty (60) days before the election to which they pertain is set to take place. All signs must be removed no later than 7 days after the election or campaign to which they pertain. Signs placed in public rights of way may be removed by the City and shall be discarded. No zoning compliance permit shall be required to display political signs.

Sec. 10.9 Electronic Message Boards

The following regulations shall apply to all electronic message boards:

10.9.1 Electronic message boards shall meet the same dimensional and location requirements as provided for free standing signs.

10.9.2 For purposes of this section, electronic signs that display only time and/or temperature shall not be considered electronic message boards.

10.9.3 Electric message boards may use LED or digital technology. All messages must remain static for a minimum of eight (8) seconds before changing.

Sec. 10.10 Temporary Signs

10.10.1 General Standards

A. A bond in an amount to be set by City Council shall be posted to ensure timely removal of temporary signs that require a Zoning Compliance Permit. Such bond shall not limit the City's authority to take additional enforcement actions permitted by this Land Development Code. The bond shall be forfeited if the City has to take any action to cause removal of the sign upon expiration or violation of the temporary sign permit.

B. A-frame signs or electrified signs shall not be used as temporary signs.

10.10.2 Real Estate Signs

Real estate signs shall be allowed without the issuance of a Zoning Compliance Permit, subject to the following standards:

A. Real estate signs shall not be illuminated.

B. Real estate signs may only contain the message that the property is for sale, lease or rent and the name, address and phone number of the agent or owner.

C. Real estate “Open House” signs no greater than five square feet shall be limited to one sign per street frontage on the premises for sale and up to ten off-premise signs spaced no closer than two hundred feet. Such signs are permitted only during daylight hours and when the real estate professional, seller, or agent is in attendance at the premises that is for sale.

D. Real estate signs shall be removed immediately upon the sale or lease of the property.

E. For lots of less than 5 acres in area in a residential, office or central business district, a single real estate sign on each street frontage may be erected. It shall not exceed 6 square feet in area and shall not be located within any Safe Sight Triangle.

F. For lots of 5 acres or more in area in a residential, office or central business district, a single real estate sign on each street frontage may be erected. Each sign shall not exceed 32 square feet in area.

G. For lots in commercial or industrial areas, not including the CBD, real estate signs shall not exceed 32 square feet in area, however, parcels with frontage along US 70, I- 40, and US 321 north of US 70 shall be allowed 20 square feet of sign area per acre up to a maximum of 128 square feet.

10.10.3 Construction Signs

Construction signs shall be allowed without the issuance of a Zoning Compliance Permit, subject to the following standards:

A. Construction signs shall not be illuminated.

B. Construction signs may contain only the identification of the project, its owner and/or developer, architect, engineer, land planner, landscape architect, contractor and subcontractors.

C. Construction signs shall not exceed 16 square feet in area in non-residential zones and 8 square feet in residential zones and shall be set back at least 5 feet from all property lines and outside of required sight triangles.

D. Construction signs shall not be erected prior to issuance of a building permit, and shall be removed within 15 days of the final inspection.

10.10.4 Banners and Similar Temporary Signs *(TA 12-01)*

A. Properties located within non-purely residential zoning districts (i.e. office, commercial and industrial) shall be permitted to display one (1) banner or similar temporary sign throughout the calendar year. Such signs shall be required to obtain a Zoning Compliance Permit annually. The following standards shall be met ant maintained at all times:

(1) The sign shall not exceed thirty-two (32) square feet in area or eight (8) feet in height;

(2) Each establishment located on a lot shall be permitted one (1) banner or similar temporary sign under this subsection;

(3) The sign shall only be located on the property on which the item or service being advertised is located. No off-premise signs shall be permitted under this section;

(4) The sign shall not be located in any public right-of-way, nor shall the sign be placed in a manner which obstructs visibility at or around intersections;

(5) The sign shall be setback at least five (5) feet from all property lines and public rights-of-way;

(6) No sign shall be roof mounted; and

(7) Signs shall at all times be properly maintained. Such maintenance shall include the following:

(a) Torn or damaged signs shall be immediately removed or repaired;

(b) Signs shall be properly secured to the building or its mounting apparatus at all times.

B. Temporary banners or similar temporary signs erected for not more than 12 weeks per calendar year announcing openings, closings, management changes or special events shall be allowed. Within non-purely residential zoning districts (i.e. office, commercial and industrial) these signs shall be allowed in addition to the sign outlined in subsection (A) above. Such signs shall be subject to issuance of a Zoning Compliance Permit and compliance with the following standards:

(1) Such signs shall be attached in total to a building wall, canopy, or the ground in such a manner as to ensure the sign will not become displaced;

(2) Such signs shall only advertise uses located on the property on which temporary sign is placed;

(3) Each establishment located on a lot shall be permitted no more than 12 weeks of temporary sign use per year.;

(4) Such signs shall not exceed thirty-two (32) square feet in area and eight (8) feet in height;

(5) The permit for such signs shall be on display at the establishment;

(6) The sign shall not be located in any public right-of-way, nor shall the sign be planned in a manner which obstructs visibility at or around intersections; and

(7) The sign shall be setback at least five (5) feet from all property lines and public rights-of-way.

C. For the purposes of this Section similar temporary sings shall consist of vertical banners and flags; provided such items do not contain any lights of moving parts. Under no circumstances shall portable signs, such as, but not limited to trailer or vehicular mounted signs be considered similar.

10.10.5 Not-for-Profit Events

Temporary signs or banners announcing a noncommercial, civic or philanthropic event shall be allowed without the issuance of a Zoning Compliance Permit subject to the following standards:

A. Such signs shall be allowed in any zoning district for not more than 14 days.

B. Such signs or banners shall be limited to 1 per lot with the written permission of the owner.

C. Such signs may be located in required setbacks.

D. Such signs shall not exceed 32 square feet in area and 6 feet in height.

10.10.6 Temporary Signs during Construction

Two temporary off-premise signs directing construction traffic during the construction period of a new business shall be allowed, subject to issuance of a Zoning Compliance Permit and compliance with the following standards:

A. Such signs may not exceed 6 square feet in area or 3 feet in height.

B. Only one such sign shall be allowed per lot, with the written permission of the property owner.

C. Such signs shall not be located in any residential or office district.

D. Such signs may be located in required setbacks.

E. Such signs must be removed upon issuance of a certificate of occupancy.

Sec. 10.11 Sign Construction and Maintenance

10.11.1 Construction

All signs shall be designed, constructed and maintained in accordance with the following standards:

A. All signs shall comply with applicable provisions of the North Carolina State Building Code.

B. Electric signs shall comply with applicable provisions of the National Electrical Code. Electric signs that have internal wiring or lighting equipment, and external lighting

equipment that directs light on signs, shall not be erected or installed until an electrical permit has been obtained from the appropriate governing body.

C. Except for permitted banners, flags, temporary signs and window signs conforming in all respects with the requirements of this Land Development Code, all signs shall be constructed of permanent materials and shall be attached to the ground, a building or another structure by direct attachment to a wall, frame or structure.

10.11.2 Maintenance

All signs shall be maintained in good structural condition, in compliance with applicable building and electrical codes and provisions of this Land Development Code. Specifically:

A. A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period of more than 30 consecutive days.

B. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of more than 10 consecutive days. No freestanding sign support structure shall stand for a period of more than 30 days after the sign face has been removed.

C. A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is to be viewed, for a period of more than 30 consecutive days.

Article 11 **Stormwater Management**

Sec. 11.1 Purpose and Scope

11.1.1 The regulations of this article are intended to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff associated with future land development with consideration for existing developed land within the City of Hickory. Proper management of stormwater runoff will minimize damage to public and private property, reduce personal damage and bodily harm, insure a functional drainage system, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain as nearly as possible the pre-developed runoff characteristics of the area, and facilitate economic development while mitigating associated flooding and drainage impacts.

11.1.2 The application of these regulations and the provisions expressed in this article shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. In addition, if site characteristics indicate that complying with these minimum requirements will not provide adequate designs or protection for local property or residents, it is the designer's responsibility to exceed the minimum requirements as necessary. The City Engineer or designee shall be responsible for the coordination and enforcement of the provisions of this section.

11.1.3 Reference is hereby made to the City's Watershed Protection Overlay District requirements contained in Sec. 4.5, and the Henry River conservation Overlay District requirements contained in Sec. 4.7. This Stormwater Management Section is intended to complement the Overlay Districts and not to replace or alter them in any way. The converse holds true for the Watershed Protection Overlay Districts. The City's National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater Ordinance is a separate document.

11.1.4 No person shall improve property by constructing buildings or structures or by increasing the imperviousness of land without having provided for appropriate stormwater management measures that control or manage runoff, in compliance with this Section, and the City's NPDES Phase II Stormwater Ordinance.

11.1.5 No person shall discharge non-stormwater into the Municipal Separate Storm Sewer System (MS4) with the exception of the following:

A. water line flushing;

B. landscape irrigation;

C. diverted natural stream flows;

D. rising ground waters;

E. ground water infiltration to storm sewers;

F. pumped ground water;

G. discharges from potable water sources;

H. foundation drains;

I. air conditioning condensation;

J. irrigation water;

K. springs;

L. water from crawl space pumps;

M. footing drains;

N. lawn watering;

O. non-commercial car washing;

P. flows from riparian habitats and wetlands;

Q. dechlorinated swimming pool discharges;

R. street wash waters; and

S. discharges from fire fighting activities.

11.1.6 If any of the above non-stormwater exceptions are found to be polluted and thus cause a negative impact on the quality of the surface waters of Hickory, said situation or occurrence shall be deemed unlawful and shall not be allowed to discharge to the (MS4). Such situation or occurrences shall be considered an illicit connection or improper disposal as defined in this Section.

Sec. 11.2 Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. The definitions of this section shall be used solely for the purpose of interpreting and administering the Stormwater Management provisions of this article.

Term	Definition
As-built plan	The certified construction plans with any changes identified and shown on the plan as constructed.
Best Management Practices (BMP)	A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.
BMP Design Manual	The latest edition of the BMP Design Manual published by the North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR, DWQ).
City of Hickory	All area within the City including the extraterritorial planning jurisdiction, "ETJ".
City Engineer	The City Engineer of Hickory or his designee.
City Manager	The City Manager of Hickory, North Carolina.
Cross-drain culvert	A culvert crossing under a public roadway.
Designer	A professional who is permitted to prepare plans and studies required by this ordinance.
Detention structure	A permanent structure for the temporary storage of runoff that is designed so as not to create a permanent pool of water.
Development	Any of the following actions undertaken by a public or private

Term	Definition
	individual or entity: any land change, including, dredging, grading, excavating, transporting and filling of land, and increasing the imperviousness of land.
Developed land use conditions	The land use conditions at build out according to the current city zoning map or proposed development plan.
Easement	A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the title conveyance of land affected by such easement.
Erosion	The process by which ground surface is worn away by the action of wind and/or water.
Existing land use condition	The land use conditions existing at the time the design plans are submitted for approval.
Hydraulic study	A study of water flowing through conveyance systems including pipes, open channels, culverts, storage facilities, or any elements of the drainage system.
Hydrologic study	A study that documents the flow calculations needed to estimate flood magnitudes. The primary information from a hydrologic study will be peak flow values and/or hydrographs needed to characterize storms for a particular design application.
Illicit connection	Any connection to the municipal separate storm sewer which discharges non-permitted non-stormwater to the MS4.
Impervious	The condition of being impenetrable by water.
Imperviousness	The degree to which a site is impervious.
Improper disposal	The releasing of matter or fluids other than atmospheric precipitation at a location where the matter or fluid can enter the municipal separate storm sewer system.
Infiltration	The passage or movement of water into the soil sub-surface.
Interior culvert	A culvert that is not located under a public roadway.
Maintenance	Any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in paragraph 9.12.1(a) of this Land Development Code and to prevent structural failure of such facilities. Maintenance shall not include actions taken solely for the purpose of enhancing the aesthetic aspects associated with stormwater management facilities.
Municipal separate storm sewer system (MS4)	A conveyance or system of conveyances (including roads with drainage systems, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is maintained by the City of Hickory, is generally in a dedicated public right of way, and is designed or used for the collection or conveying of stormwater. This does not include a privately owned or operated conveyance or system of conveyances.
Non-stormwater	Any flow that is discharged to the municipal separate storm sewer system that is not from a form of natural precipitation.
On-site stormwater management	The design and construction of a facility or facilities necessary to control stormwater runoff within and for a single development.

Term	Definition
Pre-developed conditions	Those land use conditions that were existing on the site prior to development, when the site was in its natural undisturbed condition.
Preliminary plat	The preliminary plat of a subdivision submitted pursuant to the subdivision regulations of this Land Development Code.
Regulated Flood Plain	Those flood plain areas designated by the Federal Emergency Management Agency (FEMA) and included in the City of Hickory Floodway and Floodway Fringe Zoning Regulations and County FEMA maps which apply to Hickory's Extraterritorial Jurisdiction.
Retention structures	A permanent structure that provides for the storage of runoff and is designed to maintain a permanent pool of water.
Stormwater	Water resulting from naturally occurring precipitation, including include rain, hail, sleet, snow melt and surface runoff and drainage.
Stormwater design plan	The set of drawings and other documents that comprise all of the information and specifications for the drainage systems, structures, concepts and techniques that will be used to control stormwater. Also included are the supporting engineering calculations and results of any computer software analysis.
Stormwater management	The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to minimize accelerated channel erosion, increased flood damage, and/or degradation of water quality and in a manner to enhance and ensure the public health, safety, and general welfare.
Stormwater management facilities	Those structures and facilities that are designed for the collection, conveyance, storage, peak flow reduction, treatment and disposal of stormwater runoff into and through the drainage system.
Stormwater Control Facilities	Those structures and facilities that are designed for storage and peak flow reduction of stormwater runoff into and through the drainage system.

Sec. 11.3 Warning and Disclaimer of Liability

11.3.1 The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations.

11.3.2 On rare occasions greater floods can and will occur, and flood heights may be increased by man-made or natural causes. This article does not imply that land outside the floodplain areas or uses permitted within such areas will be free from flooding or flood damages. Moreover, this article does not imply that no damage will occur as a result of flooding from stormwater management facilities.

11.3.3 This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

Sec. 11.4 Stormwater Design Plans

11.4.1 Stormwater Design Plans

Stormwater design plans shall be required for non-residential development and multiple family residential development and subdivisions that require the installation of stormwater management facilities. Stormwater design plans are detailed plans, specifications and calculations as described herein illustrating how the stormwater is going to be managed on the property including specific design information for all pipes, ditches, catch basins, retention ponds, detention ponds, siltation ponds and other stormwater management structures and facilities. Stormwater design plans are intended to ensure that the effects of increased impervious areas on stormwater are addressed in the project design.

A. The applicant shall submit a stormwater design plan (as part of the construction plans or Land Development Permit for subdivisions) to the City Engineer for review and approval.

B. If any design plan involves any stormwater management facilities or land to be dedicated to public use, the same information shall also be submitted for review and approval to any agency having jurisdiction over the land or other appropriate departments or agencies identified by the City Engineer for review and approval. This design plan shall serve as the basis for all subsequent construction.

C. The stormwater design plan will be reviewed, if requested, with the designer at a scheduled review meeting within ten (10) working days after submittal. It will then either be approved, approved with changes, or rejected. If rejected, changes, additional analysis, or other information needed to approve the next submittal of the design plan shall be identified.

D. Within fifteen (15) working days from and after the receipt of the final stormwater design plan, the City Engineer shall issue a decision approving, rejecting or conditionally approving a plan with modification.

E. The construction of a single family dwelling on a single lot shall only be required to submit a Grading Permit Application. (This does not waive any sedimentation requirements enforced by the State of North Carolina.)

Sec. 11.5 Permit requirements

No one shall create or commence with land disturbance on parcels or development project sites less than one (1) acre in size without obtaining a grading permit from the City of Hickory. Applicable projects on parcels or development project sites equal to or greater than one (1) acre shall be permitted in accordance with the State of North Carolina's erosion control requirements and the stormwater design plan requirements contained in this code, and the requirements of the NPDES Phase II Stormwater Ordinance.

Sec. 11.6 Fees

Fees for inspections and other fees associated with this ordinance are determined by the City Council. Fee schedules can be obtained from the City Engineering Department.

Sec. 11.7 Permit suspension and revocation

11.7.1 In addition to the remedies provided in Article 13 of this code, a grading permit may be suspended or revoked after a certified letter is sent to the owner or authorized representative stating that one of the following violations has been committed:

A. any violation(s) of the conditions of the grading permit approval;

B. construction not in accordance with the approved plans; or

C. non-compliance with correction notice(s) or stop work orders(s).

11.7.2 Additionally, the City Engineer may suspend any grading permit when the Engineer identifies an immediate danger in an area downstream of the permitted work. Permits may be suspended pursuant to this subsection irrespective of whether the permit holder has violated the terms of the permit and shall be suspended to such an extent as is necessary to protect the public health, safety and welfare.

Sec. 11.8 Peak Flow Reducing Stormwater Control Facilities Requirements

11.8.1 Peak flow reducing stormwater control facilities shall be required on parcels or development project sites equal to or greater than one (1) acre for non-residential development and multiple family residential development as noted below. Development on parcels or project sites less than one (1) acre are not exempt if they are part of a larger common plan of development or sale, even thought multiple, separate, or distinct activities take place at different times on different schedules.

A. The minimum peak flow reducing stormwater control requirements shall provide control measures necessary to control velocities of flow from stormwater management facilities to a level which will not cause erosion or other velocity related problems at the exit of all stormwater management facilities and downstream. In addition, stormwater control measures shall be provided to limit the 2-year and 10-year developed peak discharge rates to pre-developed peak discharge rates. The design of these facilities shall be based on guidelines contained in the City's Manual of Practice and the North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR, DWQ), BMP Design Manual as applicable.

11.8.2 For all stormwater control facilities, a hydrologic-hydraulic study shall be done showing how the drainage system will function with and without the proposed facilities. For such studies the following land use conditions shall be used:

A. For the design of the peak flow reducing facility outlet structure, use developed land use conditions for the area within the proposed development and existing use conditions for upstream areas draining to the facility.

B. For any analysis of flood flows downstream from the proposed facility, use existing conditions for all downstream areas.

C. All stormwater management control facilities emergency spillways shall be checked using the 100-year storm and routing flows through the facility and emergency spillways. For these analyses, developed conditions shall be used for all areas within the analysis.

Sec. 11.9 Stormwater management facilities

11.9.1 Stormwater management facilities may include both structural and nonstructural elements. Natural swales and other natural runoff conduits shall be retained where practicable.

11.9.2 Where additional stormwater management facilities are required to satisfy the minimum control requirements, the following measures are examples of what may be used in their order of preference, with the first being the most desirable:

A. Facilities designed to encourage overland flow, slow velocities of flow, and flow through buffer zones.

B. infiltration practices;

C. Other stormwater control facilities as contained in the NCDENR, DWQ BMP Design Manual.

11.9.3 Where structural facilities are used, designs which consolidate these facilities into a limited number of large structures will be preferred over designs that utilize a large number of small structures.

11.9.4 Stormwater design plans can be rejected by the City Engineer if they incorporate structures and facilities that will demand considerable maintenance, will be difficult to maintain, or utilize numerous small structures if other alternatives are physically possible.

11.9.5 The drainage system and all stormwater management facilities within the City (including both public and private portions) will be designed to the same engineering and technical criteria and standards. The City Engineering Department's review will be the same whether the portion of the drainage system will be under public or private control or ownership.

11.9.6 All stormwater management facilities shall be designed in accordance with the design guidance contained in the Manual of Practice, the NCDENR, DWQ BMP Design Manual, and best engineering practices.

11.9.7 All new culverts, bridge openings, or other openings in the drainage system shall be designed using developed land use conditions (as shown on current zoning maps) for upstream areas.

Sec. 11.10 Plan requirements

Stormwater design plans shall include as a minimum the following:

11.10.1 Location, dimensions, elevations, and characteristics of all stormwater management and control facilities.

11.10.2 Design plans for all subdivisions shall include delineation of all sub-basins and calculations for sizing all drainage ways, including pipes and ditches. For all ditches, calculations shall be provided showing equivalent pipe sizes and driveway culvert sizes for each lot.

11.10.3 Stormwater design plans shall include designation of all easements needed for inspection and emergency maintenance of the drainage system and stormwater management facilities. At a minimum, easements shall have the following characteristics:

A. provide adequate access to all portions of the drainage system and structures;

B. provide sufficient land area for maintenance equipment and personnel to adequately and efficiently maintain the system with the following criteria:

(1) a minimum of ten (10) feet on both sides of the centerline of piped systems thirty-six (36) inches in diameter and less,

(2) a minimum of fifteen (15) feet on both sides of the centerline of piped systems greater than thirty-six (36) inches in diameter,

(3) a minimum of ten (10) feet from top of bank along both sides of all drainage ways, streams, channels, etc., plus an additional fifteen (15) feet along one side, and

(4) a minimum of twenty-five (25) feet around the perimeter of all detention and retention facilities. This distance shall be measured from the top of the bank and toe of the dam, as appropriate.

C. Restriction on easements shall include prohibiting all fences without gates and structures that would interfere with access to the easement areas and/or the maintenance or function of the drainage system.

11.10.4 A plan for maintenance of privately owned stormwater management facilities shall be included as part of the stormwater design plan which as a minimum shall specify:

A. Types of maintenance activities that should be anticipated so that the proposed drainage system and stormwater management facilities will operate as designed.

B. The frequency and amount of maintenance that should be anticipated.

C. A planned maintenance schedule and checklist.

D. Identification of the owner(s) responsible for maintenance.

11.10.5 The stormwater design plan shall include all engineering calculations needed to design the system and associated structures.

Sec. 11.11 Plan criteria

The hydrologic criteria to be used for the stormwater design plans shall be as follows:

11.11.1 25-year 24-hour design storm (minimum) for all cross-drainage facilities.

11.11.2 10-year 24-hour design storm for all interior culverts and drainage designs, i.e., roadside ditches, storm sewers, etc.

11.11.3 2-year and 10-year 24-hour design storms for all detention and retention basins using procedures contained in the Manual of Practice or procedures approved by the City Engineer. Check for 100-year 24-hour storm in accordance with provision in Sec. 11.8.

11.11.4 All hydrologic analysis will be based on land use conditions as specified in Sec. 11.8.2.

Sec. 11.12 Professional Licensure Requirements

Stormwater design plans that are incidental to the design of developments shall be prepared by a qualified licensed North Carolina Professional Engineer, Surveyor or Landscape Architect. Stormwater control facilities shall be prepared by a qualified licensed North Carolina Professional Engineer, using acceptable engineering standards and practices.

Sec. 11.13 Inspection And Maintenance

11.13.1 Ownership and maintenance of stormwater management facilities

A. All stormwater drainage systems which are located in City street rights-of-way will be maintained by the City only after they are accepted by the City.

B. All stormwater management facilities located off of City rights-of-way shall be privately owned and maintained; provided, however, the owner thereof shall grant to the City, a perpetual, non-exclusive easement which allows for public inspection and emergency repair, in accordance with the terms of the maintenance agreement set forth in Sec. 11.17.

C. Where the stormwater system is designed to service multiple lots and is not dedicated to the City, a homeowner's association or other City approved entity shall be created and shall be vested with the responsibility for the perpetual maintenance of the stormwater system.

Sec. 11.14 Financial Security

Financial security requirements are contained in Sec. 4.5.

Sec. 11.15 Inspection schedule

11.15.1 Prior to the approval of the stormwater design plan, the applicant shall submit a proposed staged inspection and construction control schedule. The design plan shall indicate a phase line for approval. Otherwise the inspection and construction control schedule will be for the entire drainage system.

11.15.2 No stage of work shall proceed until the preceding stage of work, according to the sequence specified in the approved staged inspection and construction control schedule, is inspected and approved.

11.15.3 Any portion of the work that does not comply with the stormwater design plan shall be promptly corrected by the permittee.

11.15.4 The permittee shall notify the City Engineer upon commencing any work to implement the stormwater design plan and upon completion of the work.

Sec. 11.16 As-Built Certifications and Final Submittals

11.16.1 Upon completion of the project, and before a permanent certificate of occupancy shall be granted, the permittee shall provide an "as-built" plan certified by a qualified licensed professional (as outlined in Sec. 11.12) to be submitted upon completion of a stormwater control facility and any other related stormwater management facilities dedicated to the City.

11.16.2 The registered professional shall certify to the City Engineer that:

A. the facility has been constructed as shown on the "as-built" plan and

B. the facility meets the approved stormwater design plan and specifications or achieves the function for which it was designed.

11.16.3 A final inspection will be conducted by the City Engineer upon completion of the stormwater management facilities to determine if the completed work is constructed in accordance with the approved stormwater design plan.

11.16.4 Upon satisfactory results of the final inspection, the owner shall provide:

A. The necessary easements and final survey plat for the BMP and stormwater control structure ready for recording with the Register of Deeds.

B. Certification and as-built drawings.

C. A maintenance security in an amount as outlined in Sec. 8.16.

Sec. 11.17 Operation and Maintenance Agreement

11.17.1 Requirements related to the Operation and Maintenance Agreement and Maintenance Manual are contained in Sec. 4.5.

11.17.2 A proposed inspection and maintenance agreement shall be submitted to the City Engineer for all private on-site stormwater control facilities prior to the approval of the stormwater design plan. Such agreement shall be in form and content acceptable to the City Engineer and shall be the responsibility of the private owner. Such agreement shall provide for access to the facility by virtue of a non-exclusive perpetual easement in favor of the City at reasonable times for inspection by the City Engineer.

11.17.3 The agreement shall provide that preventive maintenance inspections of stormwater control facilities shall be performed by a qualified professional on an annual basis.

11.17.4 Inspection reports, on forms provided by the city, shall be submitted to the City Engineer on/or before the first and each subsequent anniversary of the as-built certification.

11.17.5 The agreement shall provide that if, after an inspection, the condition of a facility presents an immediate danger to the public health, safety or general welfare because of unsafe conditions or improper maintenance, the City shall have the right, but not the duty, to take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the City shall be paid by the owner(s) as set forth in subsection 11.17.7 below.

11.17.6 The agreement shall be recorded in the Register of Deeds that has jurisdiction over the development prior to the final inspection and approval.

11.17.7 The agreement shall provide that the City Engineer shall notify the owner(s) of the facility of any violation, deficiency or failure to comply with this Ordinance found during an inspection of the facility. The agreement shall also provide that upon a failure to correct violations requiring maintenance work, within a reasonable period of time, the City Engineer may provide for all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the costs of the work performed by the City pursuant to this subsection and subsection 11.17.5.

Sec. 11.18 Maintenance of pre-existing stormwater management facilities

11.18.1 All stormwater management facilities located outside of City rights-of-way shall be maintained by the owner(s) thereof in such a manner as to maintain and enhance the public health, safety and general welfare. All such maintenance of such facilities shall be at the sole cost and expense of owner(s) thereof. Such facilities shall be maintained so as to:

A. prevent injury or harm to persons or property;

B. reduce and minimize damage to public and private property;

C. reduce and minimize the impact of such facilities on land and stream channel erosion;

D. assist in the attainment and maintenance of water quality standards;

E. reduce local flooding; and

F. maintain, as nearly as possible, the pre-development runoff characteristics of the area.

11.18.2 Failure to maintain a stormwater management facility as outlined above shall constitute public nuisance. The City Engineer shall be entitled to inspect all pre-existing stormwater management facilities subject to this Ordinance at all reasonable times in order to determine compliance or non-compliance with the terms and provisions hereof.

11.18.3 Subject to the terms of subsection 6 below, the City Engineer shall provide written notice to the owner or the person in possession, charge or control of such property stating that in the judgment of the City Engineer the conditions existing upon the property constitute a nuisance, setting forth action to be taken to eliminate the objectionable conditions, and requesting that such action be undertaken within the number of days specified in the notice. The notice shall further state that unless the objectionable conditions are voluntarily removed or remedied within the time specified, the City Engineer will take the appropriate actions to eliminate the objectionable conditions and bill the property owner for all costs incurred.

11.18.4 The City Engineer is hereby directed to take all legal actions necessary to correct any nuisances including actions that are necessary to remove from the property such objectionable conditions constituting the nuisance and to charge the cost and expense thereof to the owner(s) or the person(s) in possession.

11.18.5 If the charges and costs provided for in subsection 4 above remain unpaid by the owner for a period of thirty (30) days after notice thereof to the owner of the property upon which such conditions existed, the City Manager shall cause an execution to be issued against the owner(s) of the property for those charges. The execution shall be a lien on the property and shall be a lien on all of the property of the defendant in execution from the date of such recording.

11.18.6 Nothing contained in the Ordinance shall impair the right or ability of the City Attorney to exercise any and all other remedies available, at law or in equity, including without limitation, the pursuit of injunctive relief, under emergency circumstances where there exists the danger of bodily injury or death.

11.18.7 If the City assists or has assisted private owners with the design, supply and/or installation of stormwater management facilities, this does not imply any maintenance responsibilities by the City. The maintenance of all such facilities shall be the sole responsibility of the property owner(s).

Sec. 11.19 Appeals

Appeals shall be processed as provided in Sec. 2.10.

Article 12 **Nonconformities**

Sec. 12.1 General

12.1.1 Scope

The regulations of this article govern uses, structures, lots, signs and other situations that came into existence legally but that do not conform to one or more requirements of this Land Development Code.

12.1.2 Intent

A. In order to encourage redevelopment consistent with this Land Development Code and provide property owners with reasonable use of their land, it is the general policy of the city to allow uses, structures, signs and lots that came into existence legally in conformance with then-applicable requirements to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible. This article establishes regulations governing uses, structures and lots that were lawfully established but that do not conform to one or more requirements of this Land Development Code.

B. A situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this chapter merely by the repeal of the prior ordinance or regulation.

C. The regulations are further intended to:

(1) recognize the interests of property owners in continuing to use their property;

(2) promote reuse and rehabilitation of existing buildings; and

(3) place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

12.1.3 Authority to Continue

Any lawful nonconformity that legally existed as of the effective date of this Land Development Code or that becomes nonconforming upon the adoption of any amendment to this Land Development Code may be continued in accordance with the provisions of this article. If such use is discontinued for a period of one hundred and eighty days, such nonconformity shall be deemed to have been abandoned and shall not be continued in the future except in conformance with the provisions of this Land Development Code.

12.1.4 Determination of Nonconformity Status

The burden of establishing that a nonconformity is a legal nonconformity shall, in all cases be solely upon the owner of such nonconformity.

12.1.5 Repairs and Maintenance

A. Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs are otherwise expressly prohibited by this Land Development Code. For the purpose of this provision, repair or replacement of non-load bearing walls, fixtures, wiring or plumbing shall be considered incidental repairs if the total value of the repairs in any 12-month period does not exceed 50 percent of the current replacement value of the structure.

B. Nothing in this article shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official. When improvements are made to restore the property to a safe condition, the cost of such repairs or alterations shall not be included in the 50% noted in the preceding paragraph.

12.1.6 Change of Tenancy or Ownership

The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

12.1.7 Cost Estimates

In making determinations regarding replacement value, the Planning Director shall use the Dodge Reports, Marshall Swift, or their successors, as a basic reference.

Sec. 12.2 Nonconforming Uses

12.2.1 Definition

A nonconforming use is a use that was legally established but which is no longer allowed by the use regulations of the zoning district in which it is located. A use that was legally established without a Special Use Permit shall not be deemed nonconforming solely because a Special Use Permit is now required for the subject use. Enlargement, replacement or modification of the subject use resulting in an expansion of more than 500 square feet of building area, the expansion of the site to include additional property or the addition of more than 20 parking stalls shall require approval of a Special Use Permit, just as if it were a new special use application.

12.2.2 Expansion

A. A nonconforming use shall not be enlarged or expanded unless one of the following conditions exists:

(1) such expansion eliminates or reduces the nonconforming aspects of the situation;

(2) the expansion is into a part of a building or other structure that was lawfully and manifestly designed or arranged for such use; or

(3) the expansion is for a living space addition to a single dwelling unit.

B. Expansion for the sole purpose of providing off-street parking shall not be considered expansion of a nonconforming use.

12.2.3 Change of Use

A nonconforming use may not be changed to any use other than a use allowed in the zoning district in which it is located except as provided in this section. A nonconforming use can be changed to another similar or less intense nonconforming use with the approval of the Planning Commission. The Planning Commission shall find that the new use is no more intensive in character than the original nonconforming use. Such changes shall be treated in the same manner as special uses.

12.2.4 Relocation

A nonconforming use shall not be relocated in whole or in part to another location on the lot or parcel unless the movement or relocation eliminates or decreases the extent of nonconformity.

12.2.5 Loss of Legal Nonconformity Status

A. Abandonment

If a nonconforming use is abandoned, ceases or is discontinued for any reason for a period of more than 180 days, the use shall be considered abandoned. Once abandoned, the use's legal nonconforming status shall be lost and re-establishment of the use shall be prohibited. Evidence of abandonment shall include but not be limited to: cessation or discontinuance of the particular use, disconnection of water service to the property, disconnection of electric service to the property, failure to pay property taxes or failure to maintain the property. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

B. Single Family Dwellings and Duplexes *(TA 11-01)*

Any nonconforming single-family dwelling or duplex may be altered, repaired, enlarged or replaced with a single-family dwelling, provided that the altered or replaced structure meets the dimensional requirements of the Land Development Code.

C. Manufactured Home

An existing manufactured home located in a district that no longer permits manufactured homes, may be replaced provided that the replacement dwelling meets the appearance criteria of Sec. 6.2.13.

12.2.6 Accessory Uses and Structures

No use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it complies with all regulations of this Land Development Code.

Sec. 12.3 Nonconforming Structures

12.3.1 Definition

A nonconforming structure is any building or structure, other than a sign, that was legally established but which no longer complies with the Intensity, Dimensional and Design Standards of Land Development Code. Nonconforming structures may remain, subject to the regulations of this section.

12.3.2 Structural Changes

Structural changes, including enlargements, shall be permitted if the structural change does not increase the extent of nonconformity. When a structure is nonconforming because it encroaches into a required side or rear setback, this provision shall be interpreted as allowing other portions of the structure to be expanded out to the extent of the existing encroachment, as long as there is no greater reduction of required setbacks. See Figure 12-1

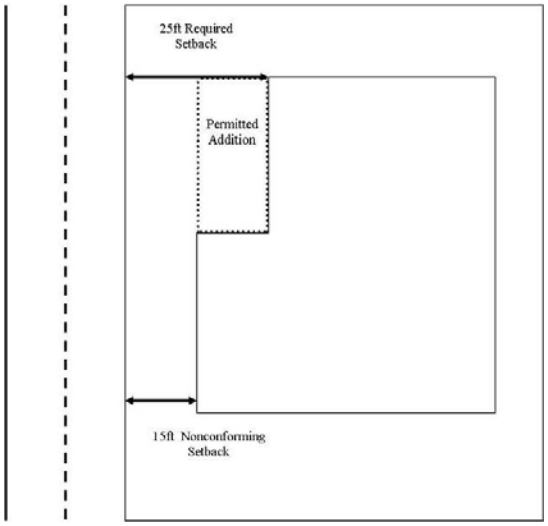


Figure 12-1 – Structural Changes to Nonconforming Structures

12.3.3 Use

A nonconforming structure may be used for any use allowed in the underlying zoning district.

12.3.4 Relocation

A nonconforming structure may be relocated in whole or in part to another location on the subject parcel if the movement or relocation decreases or eliminates the nonconformity.

12.3.5 Loss of Nonconforming Status; Damage or Destruction

If a nonconforming structure is damaged or destroyed to the extent of more than 50 percent of the assessed taxable value of the structure immediately prior to damage, the nonconforming structure shall not be restored unless it is in full compliance with all applicable provisions of this Land Development Code. If a nonconforming structure is damaged by 50 percent or less of its assessed taxable value immediately prior to damage, the structure may be re-established to the extent that it existed before the time of damage, provided that such repairs, restoration or reconstruction are substantially completed within 12 months of the date of such damage.

Sec. 12.4 Nonconforming Lots

12.4.1 Definition

A nonconforming lot is a tract of land, designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means, that complied with all applicable lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

12.4.2 Use of Single Nonconforming Lots

The provisions of this section apply to nonconforming lots:

A. In residential zoning districts, single nonconforming lots may be used for detached single-family dwellings and related accessory structures, subject to all other applicable standards of the underlying zoning district.

B. In nonresidential zoning districts, single nonconforming lots may be used for uses allowed within the underlying zoning district, subject to all other applicable standards of

the underlying zoning district. If the underlying zoning district allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area, lot width or other dimensional standards, while others would not, then only the uses or intensities that comply with applicable standards shall be permitted.

12.4.3 Division of Nonconforming Lots

Where a nonconforming lot of record in single ownership exists and is occupied by more than 1 detached single-family dwelling that meets the State Building Code, such lot may be re-subdivided to create a separate lot for each dwelling even though the resulting lots do not meet the lot area or width standards of the underlying zoning district. Before such subdivision is allowed, the Planning Director shall make the following findings:

A. Drainage easements and rights-of-way will be maintained;

B. The division does not adversely affect permissible development of adjoining property;

C. No additional nonconformities are created;

D. The division will maintain or enhance the value of contiguous property; and

E. The character of the area is maintained or enhanced.

Sec. 12.5 Nonconforming Signs

12.5.1 Definition

A nonconforming sign is a sign that was legally established but which no longer complies with the Sign regulations of Article 10.

12.5.2 Compliance or Removal – Point of Purchase Signs

Point of purchase signs shall be replaced with signs conforming to the regulations contained in Article 10 when removed or repaired if the cost of such repair exceeds 50% of the value of the sign.

Sec. 12.6 Other Nonconformities

12.6.1 Examples

The types of other nonconformities to which this section applies include but are not necessarily limited to: fence height or location; lack of required buffers or screening; lack of or inadequate landscaping; lack of or inadequate off-street parking or loading spaces; and other nonconformities not involving structural aspects of a building, location of a building on a lot, lot dimensions or land or building use.

12.6.2 Increase prohibited

It shall be the intent of this Land Development Code to encourage the reduction of these other types of non-conformities to the maximum extent feasible as buildings, lots or parking areas are redeveloped or expanded. Parking areas that do not comply with the landscape requirements of this Land Development Code shall be brought into compliance as required Sec. 9.14 when buildings are expanded or redeveloped as provided herein. The extent of such other nonconformities shall not be increased, and no use, building, structure or signs shall be established, expanded, altered, changed or relocated in such a manner to increase the degree of such other nonconformity.

12.6.3 Operational Performance Standards

Uses established prior to effective date of this ordinance, that are found to violate the operational performance standards contained in Sec. 9.10 shall be required to make reasonable modifications to bring the use of the property into compliance with the standards contained in Sec. 9.10. Such modifications may include, but shall not be limited to, installation of screening, walls or buffering, installation of noise reduction equipment such as mufflers, replacing lighting fixtures or changes in manufacturing process or use of the property that does not unreasonably interfere with the operations of the facility. No violation shall be prosecuted under this code where modifications have been made as part of a good-faith attempt to comply with Sec. 9.10 and which result in measurable reductions in the extent of the violation and the operational performance standards continue to exceed the standards of Sec. 9.10.

A. Upgrade/Expansion: Prior to issuance of a building permit for any upgrade in equipment or expansion of the facility in violation, the property owner shall certify to the Planning Director that the proposed change will not result in an increase in the nonconformity of the property with respect to the operational performance standards. If the property that has been found in violation of Sec. 9.10 is proposed to be expanded or renovated where such expansion or renovation will increase the taxable value by more than 50 percent over the assessed taxable value, the entire structure or operation shall be brought into compliance with all provisions of Sec. 9.10.

B. Damaged/Destroyed: If a property that has been found in violation of Sec. 9.10 is damaged or destroyed to the extent of more than 50 percent of the assessed taxable value of the structure immediately prior to damage, the nonconforming structure shall not be restored unless it is in full compliance with all applicable provisions of this Land Development Code.

Article 13 **Violations, Penalties, and Enforcement**

Sec. 13.1 Responsibility for Enforcement

The Planning Director, or his or her designee, shall be responsible for enforcing this Land Development Code, except as otherwise expressly stated.

Sec. 13.2 Violations

Unless otherwise expressly allowed by this Land Development Code or state law, any violation of this Land Development Code, including but not limited to the following, shall be subject to the remedies and penalties provided for in this Land Development Code.

13.2.1 To use land or buildings in any way not consistent with the requirements of this Land Development Code;

13.2.2 To erect a building or other structure in any way not consistent with the requirements of this Land Development Code;

13.2.3 To engage in the development or subdivision of land in any way not consistent with the requirements of this Land Development Code;

13.2.4 To transfer title to any lots or parts of a development unless the land development plan or subdivision has received all approvals required and an approved plan or plat, if required, has been filed in the appropriate office;

13.2.5 To submit for recording, any subdivision plat, land division or other land development plan that has not been approved in accordance with the requirements of Article 8 or that does not qualify for an exemption under this Land Development Code;

13.2.6 To install or use a sign in any way not consistent with the requirements of Article 10;

13.2.7 To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity requiring one or more permits or approvals under this Land Development Code without obtaining all such required permits or approvals;

13.2.8 To violate the terms of any permit or approval granted under this Land Development Code or any condition imposed on such permit or approval;

13.2.9 To obscure, obstruct or destroy any notice required to be posted or otherwise given under this Land Development Code;

13.2.10 To violate any lawful order issued by any person or entity under this Land Development Code; or

13.2.11 To continue any violation as defined above, with each day of continued violation to be considered a separate violation for purposes of computing cumulative civil or criminal penalties.

13.2.12 Sections 9.14 (Property Maintenance), and Section 9.1.6 (Parking on Unpaved Surfaces Prohibited) are enforced by the Hickory Police Department's Code Enforcement Division.

Sec. 13.3 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the city shall constitute a separate violation of this Land Development Code.

Sec. 13.4 Liability

The owner, tenant or occupant of any land or structure, or part thereof, or any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Land Development Code shall be held jointly and severally responsible for the violation and be subject to the penalties and remedies provided herein.

Sec. 13.5 Remedies and Enforcement Powers

The city shall have the following remedies and enforcement powers:

13.5.1 Withhold Permit

A. The Planning Director or Director of Planning and Development may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this Land Development Code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

B. The Planning Director may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this Land Development Code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation. For purposes of this section a person shall be defined as any individual or business entity with more than a 10% interest in the subject property.

C. Notwithstanding the foregoing and pursuant to G.S. § 160A-375, permits and certificates of occupancy shall not be withheld for violations of the portions of this Land Development Code adopted pursuant to G.S. Chapter 160A, Article 19, Part 2, "Subdivision Regulation," except that building permits shall be denied for lots that have been illegally subdivided.

13.5.2 Permits Approved with Conditions

Instead of withholding or denying a permit or other authorization, the Planning Director may grant such authorization subject to the condition that the violation be corrected within a reasonable time as determined by the Planning Director.

13.5.3 Revoke Permits

Any permit or other form of authorization required under this Land Development Code may be revoked by the Planning Director when the Planning Director determines: (1) that there is departure from the plans, specifications, or conditions as required under terms of the permit, (2) that the development permit was procured by false representation or was issued by mistake, or (3) that any of the provisions of this Land Development Code are being violated. Where permits are mistakenly issued an applicant shall be entitled to appeal the revocation of the permit to the Board of Adjustment as a variance request in accordance with Sec. 2.8. In such cases no fee shall be charged to process the request. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed.

13.5.4 Stop Work

A. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this Land Development Code, the Planning Director may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work and the owner of the property, if different from the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order shall constitute a misdemeanor.

B. Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment pursuant to Sec. 2.10 of this Land Development Code. An appeal shall not stay the operation of the stop work order.

C. The notice of hearing requirements set forth in this Land Development Code shall not apply to appeals of stop work orders. However, the staff shall orally notify the appellant of the date, time, and place of the hearing as soon as it has been scheduled and shall send to the appellant a written confirmation of this notice as soon as possible.

D. Neither the person whom a stop work order is served nor an owner or developer served with a copy under subsection (A) may thereafter cause, suffer, or permit a violation of the order while it remains in effect.

13.5.5 Revoke Plan or Other Approval

Where a violation of this Land Development Code involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Planning Director may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected,) revoke the plan or other approval or condition its continuance on strict compliance with this Land Development Code, the provision of security to ensure that construction is completed in compliance with approved plans, or such other conditions as the Planning Director may reasonably impose.

13.5.6 Injunctive Relief

The city may seek an injunction or order of abatement and any other appropriate relief in court to stop any violation of this Land Development Code or of a permit, certificate or other form of authorization granted hereunder. Such relief may include a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

13.5.7 Forfeiture and Confiscation of Signs

Any sign installed or placed on public property, including a public right of way, except in compliance with the regulations of Article 10, shall be subject to forfeiture to the public and subject to confiscation. In addition to other remedies and penalties of this section, the city shall have the right to recover from the sign owner or person who placed the sign, the full costs of sign removal and disposal.

13.5.8 Abatement

The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

13.5.9 Civil Penalties

Any act constituting a violation of the provisions of this Land Development Code or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the issuance of variances or special use permits shall also subject the offender to a civil penalty of One Hundred 00/100 Dollars ($100.00) per day that the offense continues. If the offender does not pay the civil penalty within 10 days after he or she has been cited for a violation of this Land Development Code, the civil penalty may be recovered in an action in the nature of debt.

13.5.10 Other Remedies and Powers

The city shall have such other remedies and enforcement powers as are and as may be from time to time provided by North Carolina law for the violation of zoning, subdivision, sign or related provisions.

Sec. 13.6 Continuation of Previous Enforcement Actions

Nothing in this Land Development Code shall prohibit the continuation of previous enforcement actions, undertaken by the city pursuant to previous and valid ordinances and laws.

Sec. 13.7 Remedies Cumulative

The remedies and enforcement powers established in this Land Development Code shall be cumulative, and the city may exercise them in any order.

Sec. 13.8 Persons Subject to Penalties

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to the above penalties.

Sec. 13.9 Enforcement Procedures

13.9.1 Non-Emergency Matters

In the case of violations of this Land Development Code that do not constitute an emergency or require immediate attention, the Planning Director shall give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have 10 days to correct the violation before further enforcement action shall be taken. Notice shall be given in-person, by United States Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

13.9.2 Emergency Matters

In the case of violations of this Land Development Code that constitute an emergency situation as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the city may use the enforcement powers available under this Land Development Code and pursuant to G.S. § 160A-193 without prior notice, but the Planning Director shall attempt to give notice to the owner and any occupants of the property simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit.

13.9.3 Appeals

Enforcement actions taken by the Planning Director may be appealed by the affected party to the Board of Adjustment, except in the case of a violation of Article 8 or a permit or approval issued under the Subdivision Plat approval procedures of Sec. 2.3, in which case appeal shall be directly to the courts. An appeal to the Board of Adjustment does not stay a decision to revoke a certificate or permit.

13.9.4 Curative Provisions

A. Notwithstanding any other provision of this Land Development Code, in the case where construction has been completed and either the setback requirements, minimum lot size, or lot width at the building line have been violated, and where a period of fifteen years has passed since:

(1) A building permit has been issued, or

(2) Construction of the structure has been completed, and

(3) The City has sufficient evidence to conclude that the violation was not the result of fraudulent or deceptive behavior.

(4) No legal action has been commenced in any court of competent jurisdiction to enjoin such construction or to cause removal of any such structure

B. In such case the City of Hickory shall not bring any proceeding or take any action to require the removal of any such structure. Provided the property owner shall have the burden of proving the applicability of this section.

Article 14 **Definitions**

Sec. 14.1 Terms and Uses Defined *(TA 14-02)*

Words and terms used in this Land Development Code shall be given the meanings set forth in this section. All words and terms not specifically defined in this section shall be given their common, ordinary meanings, as the context may reasonably suggest. The reference for common ordinary meanings shall be the latest edition of *Webster's New World Dictionary of the American Language*.

Term	**Definition**
Accessory	Having a subordinate function. (See also Building, Accessory; Structure, Accessory; Dwelling Unit, Accessory; and Use, Accessory)
Adult Bookstore	A bookstore that has 20% or more of it publicly accessible floor area and/or any use that receives a majority of its gross income during any calendar month from the sale and/or rental of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its of printed and/or video materials/publications that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.
Adult Live Entertainment Business	Any establishment or business wherein adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.
Adult Motion Picture Theater	An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-motion picture theater as defined in this section.
Adult Mini-Motion Picture Theater	An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.
Adult Use	An adult bookstore, adult motion picture theater, adult mini-motion picture theater, or adult live entertainment business, or nude model studio as defined in this section.

Agriculture	Activities involving the raising or production or plants or animals. Accessory uses may include dwellings for proprietors and employees of the use and animal training. Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries. Processing of animal or plant products, including milk, and feed lots are classified as Manufacturing and Production. Livestock auctions are classified as Wholesale Sales. Sale of products produced on site is permitted. Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
Airports	An establishment primarily engaged in (1) operating international, national, or civil airports, or public flying fields or (2) supporting airport operations, such as rental of hangar space, and providing baggage handling and/or cargo handling services.
Alcoholic Beverages	Any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.
Alley	Minor public or private rights of way used primarily for vehicular access to the rear or side of properties otherwise abutting a street at the front. Alleys provide a secondary means of access to abutting property and are not intended for general vehicular traffic circulation.
All Weather Driving Surface	Roadway surface that is constructed with concrete, asphalt, or other approved surface.
Alternative Tower Structure	Clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.
Amusement Facilities, Indoor	A commercial facility providing recreational activities contained entirely within a structure. Such uses include, but are not limited to, amusement arcades, bowling alleys, indoor batting cages, billiard and pool halls, skating rinks, and theaters.
Amusement Facilities, Outdoor	A commercial facility providing recreational activities outside of a building or structure including, but not limited to, swimming pools, baseball hitting ranges, miniature and par three golf courses, golf driving ranges not accessory to a golf course, and zoos.
Animal Hospital or Veterinary Clinic	A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Animals, Household	Animals which are customarily kept for personal use or enjoyment within the home, not exhibited to the public, nor raised for commercial purposes. Animals which are dangerous to humans or property when they reach maturity or have cloven or solid hooves are not household animals. Household animals shall include, but not be limited to, domestic dogs, domestic cats, canaries, parakeets, love birds, parrots, cockatiels, finches, toucans, mynah birds, guinea pigs, hamsters, mice, rats, gerbils, small reptiles, small amphibians and aquarium fish.
Animals, Large Domestic	Animals including, but not limited to, horses, donkeys, burros, llamas, bovines, goats, sheep, swine, and other animals or livestock of similar size and type. Sheep, goats, and swine under three months in age are not included when counting large animals. Miniature large animals are considered large animals.
Animals, Small Domestic	Animals or fowl including, but not limited to, chickens, guinea hens, geese, ducks, turkeys, pigeons, and other fowl not listed or otherwise defined. Mink, chinchilla, nutria, gnawing animals in general, and other animals of similar size and type. Young small animals or fowl under three months in age are not included when counting small animal or fowl.
Average Daily Traffic	Average daily traffic shall be based on the trip generation rates found in the latest edition of Institute of Traffic Engineers (ITE) Trip Generation or on a traffic study approved by the City Engineer.
Basement	The portion of a building having its floor sub-grade (below ground level) on all sides.
Basic Utilities	Infrastructure services that need to be located in or near the area where the service is provided including water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops or turnarounds, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities. Such uses generally do not have regular employees at the site. Services may be public or privately provided.
Bed and Breakfast	A private-residential establishment providing lodging, breakfast, and hospitality and providing an alternative to other forms of short-term/overnight lodging, such as hotels. All such establishments must be licensed to meet state codes and regulations and must comply with all local municipal restrictions, compliance with health and safety, fire, and building codes and regulations.

Buildable Area	The portion of a lot remaining after required setbacks have been provided and any conservation or preservation areas, submerged lands, easements or road rights-of-way have been subtracted from the lot area.
Building	Any roofed structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property.
Building, Accessory	A subordinate building detached and at least five feet from but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building.
Building, Principal	A building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located.
Campground	Land containing two or more campsites which are located, established or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles or cabins, for recreation, education or vacation purposes.
Caretaker's Residence	A dwelling unit contained within a commercial or industrial building, in compliance with all state building and fire codes, for use by one (1) Resident Manager and his or her immediate family.
Cemetery	Land used or intended to be used for the burial of human or animal remains and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries, if operated in connection with and within the boundaries of such cemetery.
Certificate of Occupancy	A document issued by an authorized official setting forth that land, a building or structure legally complies with the City of Hickory Building Code, this Land Development Code and other pertinent local and state requirements and that the same may be used for the purposes stated therein.
Certificate of Zoning Compliance	A document issued by the Planning Director certifying compliance with all terms of an approved Zoning Compliance Permit, and authorizing occupancy of a building, structure or land. It may either be a separate document or part of the normal documents associated with a Certificate of Occupancy, Occupational License, Building Permit, or the like.
Collocation	The installation of new wireless facilities on previously approved structures including towers, buildings, utility poles, and water tanks.

College	Institutions of higher learning, which offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks. Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities and bookstores. Examples include universities, liberal arts colleges, and community colleges. Trade schools are classified as Retail Sales and Service.
Commercial Parking	Parking facilities that are not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility. Examples include short and long term fee parking facilities, commercial district shared parking lots, commercial shuttle parking and mixed parking lots (partially for a specific use, partly for rent to others). Parking facilities that are accessory to a use, but which charge the public to park for occasional events nearby, are not considered Commercial Parking facilities. Public transit park-and-ride facilities and publicly owned parking lots/decks are classified as Basic Utilities.
Commercial Vehicle	Any vehicle or trailer licensed by any state of the United States, Mexico, or province or territory of Canada other than domestic vehicles, as defined in this Land Development Code, or over one ton in weight or 20 feet in length.
Community Recreational Centers	Privately or publically owned community centers, recreation clubs, such as boys and girls clubs, golf clubs, swimming clubs, tennis clubs, country clubs similar facilities that are not accessory to a residential development, park, or school.
Conditional Use	See Special Use.
Cultural Facility	The use of land, buildings, or structures to provide educational and informational services to the general public including, but not limited to, aquariums, arboreta, botanical and zoological gardens, art galleries, museums and libraries.
Daycare	Uses including day or evening care for children unrelated to the caregiver for a fee. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision. Examples include preschools, nursery schools, after school programs and adult daycare programs. Daycare use does not include care given by the parents, guardians or relatives of the children or by babysitters.
Dead End Main	Water mains where only one end of the pipe is tied into the feeder main so as to be fed from only one direction.

Detention Facilities	Facilities for the judicially required detention or incarceration of people. Inmates and detainees are under twenty-four-hour supervision by detention/incarceration officers, except when on an approved leave. Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, and hobby and manufacturing activities. Examples include prisons, jails, probation centers, secure community transition facilities and juvenile detention homes.
Development	Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
Domestic Vehicles	Any vehicle or trailer, licensed by any state of the United States or Mexico or province or territory of Canada, as a private vehicle for operation on streets and may include, but not be limited to, automobiles, private pickup trucks, trailers, and vans.
Drinking Establishment	An establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. This includes all bars, nightclubs, taverns, and other similar establishments. This excludes eating establishments where food sales exceed 50 percent of the facility's total sales. If the facility also sells food, and the sale of food products represents more than fifty percent of the facility's total sales, the facility shall be considered an eating establishment. Eating establishments are classified as Retail Sales and Service.
Drive-In Window	A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.
Duplex	A two-family house with individual single family residential units separated by a common wall
Dwelling, Multi-Family	A structure containing 3 or more dwelling units.
Dwelling, Single-Family	A structure containing a single dwelling unit.
Dwelling, Single-Family Attached	A residential structure sharing at least one common wall with another residence (i.e. duplex, townhouse, row house, etc)
Dwelling, Single-Family Detached	A residential structure that does not share any walls with another residence
Dwelling Unit	A room or group of rooms forming a single independent habitable unit used for, or intended to be used for, living, sleeping, sanitation, cooking and eating purposes by one family only; for an owner occupancy or for rental, lease or other occupancy on a monthly or longer basis, and containing independent kitchen, sanitary and sleeping facilities.

Dwelling Unit, Accessory *(TA 14-03)*	A subordinate dwelling unit located on the same lot as the principal dwelling. Such units may either be attached or detached from the principal dwelling; provided detached units are separated by at least five (5) feet from the principal dwelling. The use of such units shall be incidental and accessory to the primary dwelling.
Eating Establishment	An establishment whose principal business is the sale of food, frozen desserts or beverages to the customer in a ready to consume state.

Electronic Gaming Operations	Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines. For the purposes of this section "Electronic Machine of Device" means a mechanically, electronically or electronically operated machine of device, that is owned, eased or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This definition is applicable to an electronic machine or device whether or not:: ▪ It is server based. ▪ It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries. ▪ It utilizes software such that the simulated games influences or determines the winning or values of the prize. ▪ It selects prizes from a predetermined finite pool of entries. ▪ It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry. ▪ It predetermines the prize and results and stores those result for delivery at a time the sweepstakes entry results are revealed. ▪ It utilizes software to create a game result. ▪ It requires the deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device. ▪ It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device. ▪ It requires purchase of a related product. ▪ The related product, if any has legitimate value. ▪ It reveals the prize incrementally, even though it may not influence if a prize is awarded or the vale of any prize awarded. ▪ It determines and associates the prize with an entry or entries at the time the sweepstakes is entered ▪ It is a slot machine or other form of electrical, mechanical, or computer game.
Extended Care Facility	See Nursing/ Extended Care Facility
Family	Any number of people related by blood, marriage or adoption or not more than five unrelated persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes.

Family Care Home	A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.
Fire Department Access Road	A travel-way that provides fire apparatus access from a fire station to a facility, building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane, and all weather driving surfaces.
Fire Flow	The flow rate of a water supply, measured at 20 pounds per square inch residual pressure, that is available for fighting fire. The flow shall be available for the duration of at least 60 minutes.
Floor Area	The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor area used for habitation, access and storage. Not countable as floor area are garages, carports, screened porches, covered decks, open terraces, patios, atriums, balconies, breezeways and outside open space devoted to commercial and service uses. Also not included are tool sheds, special purpose areas for common use (for instance, recreation and social rooms) and open basement areas not used for habitation.
Floor Area Ratio, Maximum Permitted	The floor area ratio permitted as of right in the several districts, excluding any bonus or transferred floor area.
Floor Area Ratio (FAR)	The ratio of permitted floor area to the gross land area of the lot.
Fraternity or Sorority Houses	See Group Living Facility.
Front of lot	On interior lots, the front of a lot shall be construed as the portion nearest the street. On corner lots and through lots, the frontage of a lot shall be specified in writing by the property owner at the time of application for an initial building permit. On through lots in commercial districts, a property owner may specify an interior lot line for the establishment of frontage and the front setback provided that proper vehicular access to the specified frontage can be secured.
Frontage Line	Any lot line that abuts a public street or sidewalk. A corner lot has two frontage lines.

Golf Course	A tract of land laid out with a course having nine or more holes for playing the game of golf, including any accessory clubhouse, driving range, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges not accessory to a golf course.
Ground Floor	The exterior portion of a building that extends up to nine (9) feet above finished grade. *(TA 11-01)*
Group Living Facility	The residential occupancy of a structure by a group of people who do not meet the characteristics of Residential Household Living. The size of the group will be larger than the average size of a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for shorter periods are generally not considered group living. They are considered to be a form of transient lodging (see Retail Sales and Service). However, homeless shelters, rescue missions, and other similar uses that provide overnight accommodations are considered group living facilities regardless of the length of tenancy. Generally, Group Living structures have a common eating area for residents. The residents may or may not receive any combination of care, training or treatment, as long as they also reside at the site.
Height	The vertical distance from the mean elevation at the finished grade along the front of the structure to the highest point of the structure or to the highest point of a flat or mansard roof or to the mean height between the eaves and ridge for a pitched roof in the case of buildings.
Highest Adjacent Grade	The highest natural elevation of the ground surface, prior to construction, next to the walls of the proposed structure.
Home Occupation	An accessory use of a dwelling unit which constitutes, either entirely or partly, the livelihood of the person(s) living in the dwelling unit.
Household	A family living together in a single dwelling unit with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.
Housing, Senior	Multi-family housing designed for and occupied by persons 55 years of age or older.

Industrial Service	Uses engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; building, heating, plumbing or electrical contractors; repair and service of heavy machinery, equipment and vehicles; printing, publishing and lithography; janitorial and building maintenance services; research and development laboratories; laundry, dry-cleaning and carpet cleaning plants; photo finishing laboratories; truck stop; and towing and wrecker service. Contractors and others who perform services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication or similar work is not carried on at the site.
Junk	Old, dilapidated, scrap or abandoned materials, including but not limited to metal, paper, building material and equipment, bottles, glass appliances, furniture, beds and bedding, rags, rubber, motor vehicles and parts thereof.
Junkyard and Automobile Salvage Yard.	The use of more than 2,000 square feet of the area of any lot for the outdoor storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the storage, dismantling, demolition or abandonment of inoperable automobiles, vehicles or machinery or parts thereof.
Kennel	Any lot or premises on which six or more household or exotic animals, more than six months of age, are housed, groomed, bred, boarded, trained or sold.
Land Excavation	Removal of 500 cubic yards or more of sand, soil, peat, muck, clay, stone, shell and the like, for disposal off-site.
Level of Service	Level of service as defined by the most current edition of the North Carolina Department of Transportation Highway Capacity Manual.
Livability Space	Livability space is part of total open space appropriately improved and located as outdoor living space for residents and for aesthetic appeal. Such space includes lawns and other landscaped areas, walkways, paved terraces and landscaped portions of street rights-of-way. Such space shall not be used for vehicles except for incidental service, maintenance or emergency access.
Loading, Off-Street	Space located outside of any street right-of-way easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.
Looped Main	Water mains where both ends of the pipe are tied into feeder mains so as to be fed from two directions.

Lodging Unit	A room or group of rooms forming a separate habitable unit used or intended to be used for living and sleeping purposes by one family only, without independent kitchen facilities, or a separate habitable unit, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or lease basis for periods of less than one month.
Lot	Land bounded by lines legally established for the purpose of property division.
Lot, Corner	A lot located at the intersection of two or more streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot (projected if rounded) meet at an interior angle of less than 135 degrees.
Lot Coverage	The percentage of lot area covered by primary structures
Lot, Front of	See “Front of lot”
Lot, Interior	A lot other than a corner lot, and abutting one street. Alleys shall not be considered streets for purposes of this definition.
Lot Line	A line that marks the boundary of a lot.
Lot Line, Interior	Any lot line that is not a street lot line; a lot line separating a lot from another lot.
Lot Line, Street	Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.
Lot of Record	A lot which is part of a subdivision, the plat of which has been recorded in the appropriate Office of the Register of Deeds or any parcel of land, whether or not part of a subdivision that has been officially recorded by a deed in said office, provided such lot was of a size which met the minimum dimensions for lots in the district in which it was located at the time of recording or was recorded prior to the effective date of zoning in the area where the lot is located.
Lot, Reversed Frontage	A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot.
Lot, Through	A lot other than a corner lot, and with frontage on more than one street. Through lots abutting two streets shall be referred to as “double-frontage lots” unless they are corner lots. Alleys shall not be considered streets for purposes of this definition.
Lot Width	The horizontal distance measured along a straight line connecting the points where the minimum front setback line meets the interior lot lines or, if on a corner, the other front setback line.

Major Event Entertainment	Uses characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature. Accessory uses may include restaurants, bars, concessions, parking and maintenance facilities. Examples include stadiums, sports arenas, coliseums, race tracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas and fairgrounds. Exhibition and meeting areas with less than twenty thousand square feet of total event area are classified as Retail Sales and Service. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category. Theaters, including drive-in theaters, are classified as Retail Sales and Service.
Manufactured Home Park	The use of a single lot for the placement of two or more manufactured homes.
Manufactured Home	A single-family dwelling unit constructed after July 1, 1976, built in accordance with the Department of Housing and Urban Development (HUD) Manufactured Home Construction Act. Manufactured homes do not include recreational vehicles as defined herein.
Manufacturing and Production	Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component pars, the creating of products, and the blending of materials, such as oils, plastics, resins, or liquors. Products are generally made for the wholesale market. Manufacturing of goods to be sold primarily on-site and to the general public are classified as Retail Sales and Service.
Marina	Establishments engaged in operating docking and/or storage facilities for aquatic pleasure craft owners, with or without one or more related activities, such as retailing fuel and marine supplies; and repairing, maintaining, or renting pleasure boats.
Medical Centers	Uses providing medical or surgical care to patients and offering overnight care. Medical Centers tend to be on multiple blocks or in campus settings. Accessory uses include outpatient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities and housing facilities for staff or trainees. Examples include hospitals and medical complexes that include hospitals. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol or drug problems, where patients are residents of the program, are classified in the Group Living category. Medical clinics that provide care where patients are generally not kept overnight are classified as Office. Emergency medical care clinics are classified as Retail Sales and Service.

Mini Storage	A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.
Mining	Removal or extraction of mineral or aggregate resources from the ground for off-site use. Accessory uses include storage, sorting, stockpiling or transfer off-site of the mined material. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil, gas or geothermal drilling.
Modular home	A modular home is a single-family dwelling constructed in accordance with the North Carolina Uniform Residential Building Code in a manufacturing plant and assembled on site. Such units shall be permitted in all zones where single-family dwellings are permitted, shall rest on permanent foundation and shall comply with all requirements of Section 6.2.13 of the Land Development Code except as modified herein.
Multi-Family	See Dwelling, Multi-Family
New Construction	Structures for which the start of construction commenced on or after the effective date of this Land Development Code.
Nonconformity	Lots, uses of land, uses of structures, structures or characteristics of uses, which were lawful before this Land Development Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Land Development Code. The following constitutes types of nonconformities: (a) Lots; (b) Uses of land without structures or with minor structures only; (c) Uses of major structures and premises; (d) Structures; and (e) Characteristics of use which were lawful, but would be prohibited, regulated or restricted by the enactment of this Land Development Code or a subsequent amendment thereto. A nonconformity may also be created where lawful public taking or actions taken pursuant to a court order have the same effect as violations of this Land Development Code, if undertaken privately.

Nude Model Studio	Means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, filmed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or in part by taxation; or in a structure: (a) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and (b) where in order to participate in a class, a student must enroll at least three days in advance of the class; and (c) where no more than one nude or semi-nude model is on the premises at any one time.
Nursing/Extended Care Facility	Any facility which provides nursing services as defined in the North Carolina General Statutes Annotated. Facility means any institution, building, residence, private home or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide nursing care, personal care or custodial care for persons not related to the owner or manager by blood or marriage, who for reason of illness, physical infirmity or advanced age require such services. This term shall not include any place providing care and treatment primarily for the acutely ill.
Off-Premises	Not located on the same lot with the principal use or structure.
Open Space	Open space is the total horizontal area of uncovered open space plus one-half the total horizontal area of covered open space subject to limitations set forth below. (a) Uncovered open space is total gross residential land area not covered by buildings plus open exterior balconies and roof areas improved as recreation space. (b) Covered open space is usable open space closed to the sky, but having two clear unobstructed open or partially open sides. Partially open is construed as 50 percent open or more. Examples of covered open space area are covered balconies, covered portions or improved roof areas, or spaces under buildings supported on columns or posts on cantilevers. The square footage countable as covered open space shall not exceed the square footage of the open sides.

Open Storage	Open Storage shall mean the storage outside of a building, or within buildings with less than three sides, of materials, stuff, supplies, merchandise, equipment, non-motorized commercial vehicles and like items, but excluding junk on a property. The following open storage uses are exempt from the regulations contained herein: outdoor in-service vending machines, fresh produce, Christmas trees, live plants, statuary, bagged ice in freezers, firewood in sales bins, tanks of propane in exchange racks, shopping carts, other retail goods left outside during business hours only, operable vehicles (excluding trailers), properly permitted seasonal sales and roadside stands, manufactured or modular homes, and storage buildings prefabricated to building codes
Open Storage, Accessory	Open Storage is shall be considered as an accessory use only if 49 percent or less of the total land area of a lot is used for Open Storage and there exists a principle use on the same parcel of land.
Open Storage, Principal	Open Storage is shall be considered as a principal use if uses 50 percent or more of the total land area is used for Open Storage or if no other use exists on the same parcel of land.
Parking, Off-Street	Space located outside of any street right-of-way or easement and designed to accommodate the parking of motorized domestic and commercial vehicles.
Parks and Open Areas	Uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens or public squares. Lands tend to have few structures. Accessory uses may include club houses, maintenance facilities, concessions, campgrounds and parking. Examples include parks, golf courses, public squares, plazas, recreational trails, botanical gardens, nature preserves and land used for grazing that is not part of a farm or ranch.
Person With Disability	A person with a temporary or permanent physical, emotional or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others, as defined in G.S. § 122C-3(11)b. Where applicable, this term shall also include persons defined as “disabled” by the Americans With Disabilities Act.
Personal Services	Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel including, but not limited to, barber shops, beauty salons, seamstress shops, dry cleaning and laundry pickup facilities.

Planned Development	Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans which include not only streets, utilities, lots and building location and the like, but also site plans for all buildings, as are intended to be located, constructed, used and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provision, operation and maintenance of such areas, facilities and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated or maintained at general public expense.
Playground	See Parks and Playgrounds
Portable On-Site Storage Unit	Any container designed for the storage of personal property and for transport by commercial vehicle that is typically rented to owners or occupants of property for their temporary use. A portable on-site storage unit is not a building or structure.
Pre-Existing Towers and Antennas	Any tower or antenna on which a permit has been issued prior to the effective date of this Land Development Code.
Premises *(TA 14-03)*	A lot or parcel of real property where a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity or use exists or is conducted, manufactured, sold, offered, maintained or takes place.
Professional Services (Office)	An establishment containing practitioners of a calling or vocation in which knowledge of some department of science or learning is used in its application to the affairs of others. Such activities would include, but not be limited to, accounting, auditing and bookkeeping services, architectural services, engineering and surveying services, interior design services, medical offices and legal services.
Public Facility	The use of land, buildings or structures by a municipal or other governmental agency to provide protective, administrative and social services directly to the general public, including police and fire stations, municipal buildings, libraries, community centers, and any other public facility providing the above services. This category also includes water or wastewater treatment plants, telephone exchanges, resource recovery facilities, and other similar public service structures, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including public cultural facilities.

Public Utility Uses	See Basic Utilities
Railroad Yards	Sites that contain multiple railroad tracks used for rail car switching, assembling of trains and transshipment of goods from other transportation modes to or from trains. Accessory uses include offices, employee facilities, storage areas and rail car maintenance and repair facilities.
Recreational Vehicle	A vehicular-type portable structure which can be towed, hauled or driven, and is primarily designed as temporary living accommodations for recreational, camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers, automobile, truck and recreational vans.
Recycling and Salvage Facilities	Operations that process reusable material, including, but not limited to, metals (including vehicles which have been crushed off-site), glass, rubber (including tires), plastic, paper, wood, construction debris and scrap, which is intended for reuse or reconstitution for the purpose of using the altered form. Recyclable material shall not include hazardous materials and wastes, garbage, biodegradable refuse such as food, medical wastes, or other similar materials, and wrecked, dismantled, or partially dismantled automobiles.
Redevelopment	The renovation of previously occupied buildings, where necessary or proposed improvements are greater than or equal to 50% of the accessed tax value, as determined by the appropriate county tax records. For the purposes of this Land Development Code, redevelopment shall be defined in this manner whenever development standards are relaxed or waived for the reoccupation of existing buildings.
Register of Deeds	The Register of Deeds in the County in which the property is located.
Religious Institutions	A structure in which worship, ceremonies, rituals, and education pertaining to a particular set of beliefs are held including, but not limited to churches, temples, synagogues, and mosques.
Research Activity	Research, development, and prototype testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration or odor detectable outside the buildings. This use is classified as Industrial Service
Resident Manager	An owner or agent of the owner of a building, living on the premises, who exercises general supervision of the building.
Residential Household Living	Uses characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period.

Retail Sales and Service	Firms involved in the sale, lease or rent of products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
Retail, Sales Oriented	Stores selling, leasing or renting consumer, home and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvement products, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary and videos, food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks and other recreational vehicles. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales. Bulk outdoor sales of landscape materials, including bark chips and compost, is classified as Industrial Service. Sales, rental or leasing of heavy trucks and equipment is classified as Wholesale Sales.
Retail Services	Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including restaurants, hotels and motels; finance, real estate, and insurance offices; health educational and social services; and galleries.
Retail, Repair Oriented	Businesses engaged in repair of TVs and electronics, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks are classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.
Schools	Public and private schools at the primary, elementary, middle, junior high, or high school level providing state mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, parking and before- or after-school daycare. Examples include public and private daytime schools, boarding schools and military academies. Preschools are classified as Daycare uses. Trade schools are classified as Retail Sales and Service.
Seasonal Sales *(TA 14-02)*	Sales activities of a seasonal nature conducted as principal use or as an accessory use to an established businesses, which are carried out either out-of-door, or within temporary structures. Such activities include the display and sale of Christmas trees, fireworks, pumpkins, and other goods commonly associated with a holiday or seasonal activity.

Setback	An open space unoccupied and unobstructed by any structure or portion of a structure from 36 inches above the general ground level of the graded lot upward (except as otherwise provided by these regulations); provided, however, that fences and walls may be permitted in any setback subject to height limitations established herein, and further provided that poles, posts and other customary yard accessories, ornaments and furniture shall be permitted in any required setback if they do not constitute substantial impediments to free flow of light and air across the setback to adjoining properties.
Setback, Front	A setback extending between the side lot lines across the portion of a lot adjacent to a street in residential or office and institutional districts or a setback extending between lot lines across the portion of a lot determined to be the front yard in commercial, industrial and economic development districts.
Setback, Rear	A setback extending across the rear of a lot between the side lot lines. The rear setback shall be at the opposite end of the lot from the front lot line, excepting in the case of through lots, corner lots and waterfront lots.
Setback, Side	A setback extending along the side of a lot between the front setback line yard and the rear setback line except on corner lots where the side setback is the setback along any interior lot line that intersects with a street lot line.
Sexually Oriented Business	Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in NCGS § 14-202.10. A "Sexually-Oriented Business" includes any Adult Use as defined in this Section.
Sexually Oriented Devices	Without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.
Sexually Oriented Device Retailer	Any use that has 20% or more of its publicly accessible floor area and/or any use that receives a majority of its gross income during any calendar month from the sale and/or rental of sexually oriented devices as defined in this section.
Sign	Any structure or device designed to inform or attract the attention of persons not on the premises on which the device is located.

Sign, Area	The area of a sign shall be computed as including the entire surface area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including display of identification or licensing officially required by any governmental body or any supporting framework or bracing that is clearly incidental to the display itself and bearing no advertising matter. In the case of signs mounted back-to-back or angled away from each other, the surface area of each sign shall be computed. 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 shall be included in computations of area. In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material shall be computed separately as part of the total surface area of the sign.
Sign, Freestanding	A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.
Sign, Point of Purchase	See sign, freestanding.
Sign, Portable	Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported.
Sign, Roof	A sign supported by and erected on or above a roof that does not meet the requirements of a wall sign
Sign, Vehicular	Any sign attached or applied to or painted on a vehicle or trailer for the primary purpose of advertising or directing attention to a product, service, entertainment, or commercial activity but does not include words, graphics or other communication that serves to identify the vehicle as one ordinarily and routinely used and operated in the course of the business advertised.
Sign, Temporary	Any sign that is used only temporarily and is not permanently mounted.
Signs, Number Of	For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of units, where strings of lights are used, or where there is a reasonable doubt about relationship of elements, each element or light shall be considered to be a single sign where sign surfaces are intended to be read from different directions (as in the case of back-to-back signs or those angled from each other) each surface shall be considered to be a single sign.

Single-Family	(See Dwelling)
Solid Waste	Garbage, rubbish, refuse or other discarded solid or semi-solid material resulting from domestic, commercial, industrial, agricultural activities and governmental operations, excluding solids or dissolved materials in domestic sewage or other significant pollutants in water resources such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.
Special Use	A use which would not be appropriate generally or without special study throughout the zoning district but which, if controlled as to number, size, location or relation to the neighborhood, would promote the public health, safety and general welfare.
Specified Anatomical Areas	Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.
Specified Sexual Activities	Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
Start of Construction	The first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring of slabs or footings or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
Street	A public or private vehicular way (which may also serve in part as a way for pedestrian traffic), whether called street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, alley, mall or otherwise.
Street, Arterial	Streets used primarily for through traffic, usually on a continuous route. For purposes of this Land Development Code, such streets include those so designated in any officially adopted thoroughfare plan or element thereof.
Street, Collector	Streets used to carry traffic from minor streets to arterial streets. For purposes of this Land Development Code, such streets include those designated as collectors in the officially adopted thoroughfare plan or element thereof.

Street, Cul-de-Sac	Dead-end streets, having the same entrance and exit, and requiring including facilities for traffic to turn around
Street, Local or Minor	Streets other than arterials or collectors, used primarily to provide access to abutting properties. The term includes marginal access streets.
Street, Loop	Streets providing a means for local traffic to leave and enter other streets without turning around, but provide access only to properties directly served.
Street, Private	A roadway, not dedicated to the public, providing primary access to adjacent properties and meeting the regulations of the City of Hickory for private street development.
Streets, Limited Access	Streets to and from which access of adjoining property is not direct, but is combined, limited, channeled or prohibited. Marginal access streets, as defined above, are one means for limiting and controlling access to arterial streets, usually combining entrances along a single blockface.
Street, Marginal Access	Streets that are generally parallel and adjacent to arterial streets and serve abutting properties and provide protection from friction with through traffic.
Street, Public	A street that has been accepted for permanent maintenance by either the State of North Carolina or the City of Hickory.

Story	That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except:
	▪ The topmost story is that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above;
	▪ That portion of a building between the eaves and the ridge, when over twenty feet in height, is considered a story;
	▪ That portion of a building below the eaves which exceeds fourteen feet in height is considered a story, each fourteen feet of height (or major part of fourteen feet) being an additional story; and
	▪ A basement or unused under-floor space is a story if the finished floor level directly above is either more than:
	  ▪ Six feet above grade for more than half the perimeter, or
	  ▪ Twelve feet above grade at any point.

Structural Alteration	Any change, except for repair or replacement, in the supporting members of a structure such as, but not limited to, bearing walls, columns, beams or girders.
Structure	Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground including, but not limited to, principal and accessory buildings, manufactured homes, signs, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers and cables.

Structure, Accessory	A subordinate structure detached and at least five feet from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.
Structure, Principal	A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.
Subdivision	The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale or building development that is not specifically exempted by NCGS §160A-376.
Subdivision, Minor	A division of land which meets all of the following criteria: ▪ All lots created front on an existing public street; ▪ No new streets are created or required to access interior property; ▪ No extension of public sewerage or waterlines is required, nor is the creation of new drainage easements through lots required to serve property at the rear; ▪ All parcels created conform to the requirements of this Land Development Code and related controls.
Subdivision, Major	Any subdivision that does not meet the criteria of a Minor Subdivision.
Substantial Improvement	Any repair, reconstruction or improvement of a structure within any twelve-month period, where the cost equals or exceeds fifty percent of the market value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state and local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
Superior Court	A North Carolina Superior Court having proper jurisdiction over the matter.
Temporary Sales *(TA 14-02)*	Sales activities of a temporary nature conducted as an accessory use to an established businesses, which are carried out either out-of-doors, or within temporary structures on the property to which the business conducting such sale is located. Temporary sales include, but are not limited to, the display and sale of landscape supplies, building materials that are not otherwise required to be screened, outdoor furniture, and recreational equipment.

Towing/Wrecker Service	A commercial establishment engaged in towing of vehicles or equipment from one location to another. Such facilities may also include an indoor or outdoor storage component for such vehicles or equipment, but may not include junked, salvaged, or permanently inoperable vehicles or equipment. This use is classified as industrial service.
Townhouse	A single-family dwelling constructed in a series or group of attached units with property lines separating the units and meeting the requirements of the North Carolina Building Code.
Transition Line	A horizontal line extending the full width of a building façade. It may be in the form of any of the following: 1. a change in building material; 2. a trim line; or 3. a continuous balcony.
Transmission Main	A water main that serves as the principal water source to any site or district.
Truck Terminals	Establishments primarily engaged in providing services (except motor vehicle towing) commercial users of road network users.
Upper Story Residential	A residential unit located above a non-residential unit
Use	The specific activity or function for which land, a building or a structure is designated, arranged, occupied or maintained.
Use, Accessory	A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to the principal use of the lot or structure.
Use, Principal	The primary use and chief purpose of a lot or structure.
Variance	A relaxation by the Board of Adjustment of the dimensional regulations of this Land Development Code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this Land Development Code would result in unnecessary and undue hardship. The Board of Adjustment shall not grant variances from the use regulations of this Land Development Code.
Vehicle Repair	Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, part sales, and vehicle storage. Examples include vehicle repair, transmission or muffler shop, auto body shop with paint booth, alignment shop, auto upholstery shop, auto detailing and tire sales and mounting. Repair and service of industrial vehicles and equipment and of heavy trucks; and towing and vehicle storage are classified as Industrial Service.

Warehouse and Freight Movement	Uses that involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks and repackaging of goods. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel or other aggregate materials. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses. Mini-warehouses rented to consumers on a month to month basis are classified as Mini-Storage Facilities.
Waste Related Use	Uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, a use which collects sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. This category uses also include uses which receive hazardous wastes from others and which are subject to state hazardous waste standards. Accessory uses may include recycling of materials, offices and repackaging and transshipment of by-products. Examples include sanitary landfills, incinerator, limited use landfills, waste composting, energy recovery plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites. Disposal of dirt, concrete, asphalt and similar non-decomposable materials is considered fill.
Water Mains and Fire Hydrants, Private	Any water main and their appurtenances not officially dedicated and accepted by the City of Hickory shall be deemed a private system.
Water Mains and Fire Hydrants, Public	Any water main and their appurtenances officially dedicated and accepted by the City of Hickory shall be deemed a public system.
Wholesale Sales	Establishments or places of business generally involved in the sale, lease or rent of products primarily intended for other businesses including retailers, industrial, commercial, institutional, professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wireless Communications Facility	Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas.
Wireless Communications Facility, Alternative Structure	Clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.
Zoning Compliance Permit	A permit issued by the Planning Director authorizing the recipient to make use of property in accord with the requirements of this Land Development Code. This permit may either be a separate document or part of the normal permits associated with certificates of occupancy, occupational license applications, building permits or the like.
Zoning District	Areas of land or water, whose boundaries are indicated on the official Zoning Atlas, within which all properties are regulated by the general regulations of this Land Development Code and the specific regulations of the individual district.