



UNIFIED DEVELOPMENT ORDINANCE

Adopted: Feb. 28, 2011

Amendments:

April 11, 2011	September 9, 2019
September 12, 2011	December 9, 2019
December 12, 2011	March 9, 2020
March 12, 2012	September 14, 2020
June 11, 2012	March 8, 2021
September 17, 2012	June 14, 2021
December 10, 2012	June 28, 2021
March 11, 2013	September 13, 2021
June 10, 2013	December 13, 2021
July 8, 2013	March 14, 2022
September 9, 2013	June 13, 2022
December 9, 2013	September 12, 2022
March 10, 2014	October 10, 2022
June 9, 2014	December 12, 2022
September 8, 2014	March 13, 2023
November 24, 2014	September 11, 2023
December 8, 2014	October 9, 2023
March 9, 2015	February 12, 2024
June 8, 2015	March 11, 2024
September 14, 2015	June 10, 2024
November 30, 2015	
March 14, 2016	
June 13, 2016	
September 12, 2016	
December 12, 2016	
March 13, 2017	
June 12, 2017	
September 11, 2017	
December 11, 2017	
March 26, 2018	
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October 22, 2018	
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March 11, 2019	
June 10, 2019	

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AMENDMENT KEY

AMENDMENT DATE	AFFECTED SECTIONS
April 11, 2011 (scriveners errors)	3.6.10; 3.8.4.2; 3.8.4.3; 3.8.4.4; 4.2.7.1; 4.3.3.2(a); 5.1.2.1f; Table 5.1.5 and 5.1.6; 5.2.5 (add); Table 6.3.2; add Figure 6-1, 6-7, 6-8; 6.18.4; 6.18.15; 7.1.1; 7.2.2.1; 8.6.2; 8.6.3.8; 8.6.5; 8.6.6
September 12, 2011	3.10.7; 6.16.3.2.a; 6.19.2; 6.22.1; 6.22.2, 6.22.3, 6.22.4, 6.22.6; and 9.2 (canopy tree, deciduous tree, non-deciduous tree)
December 12, 2011	5.1.6; 6.5.1; 6.13.3.5; 6.16.1; 6.18.6.2; 6.18.6.3; 9.1.5.1; and 9.2 (public event, storage & warehousing: self)
March 12, 2012	5.15; 5.2.3; 6.18.5 (faith-based cemeteries & pointer signs)
June 11, 2012	Table 6.3.1 and 6.3.1; 6.18.15.1 (new); 6.20 (Falls Lake); and 9.2 (new terms related to Falls Lake)
September 17, 2012	5.2.16 (home occupation)
December 10, 2012	3.8.4.4 and 3.9.4.3 (stormwater); 5.1, 5.2.11, and 9.2 (electronic gaming); 5.2.24; 6.18.15.1
March 11, 2013	4.3.1.2
June 10, 2013	5.1 (artisan studio in GI)
July 8, 2013	5.1 (performance facility in CC); 5.2.35, conditions for performance facility
September 9, 2013	Sections 4, 5, 6, Create Adaptive Re-Use district; 6.3.1, lot size in AR district; 6.5.7.4, utilities and buffers; 9.2, food preparation business
December 9, 2013	Sections 3.9, 3.10, and 3.11, updated BOA processes; Section 3.13 and 5.1.6, site plan thresholds; Section 4.5.3.8 and Section 6.20.17, riparian buffer requirements for delegated authority; Section 5.1.6 and 9.2, restaurant definition; Section 6.13.8, parking space and aisle dimensions
March 10, 2014	Section 9.2, 5.1, and 5.2 to delete nightclub and add provisions to restaurant, bar, and performance facility; Section 6.18.4 to add water tank signage provisions
June 9, 2014	Sections 4.3.1.2, 4.3.1.2, 4.4.3.1, and 4.4.4.2
September 8, 2014	Sections 5.1.6, 5.2, 5.2.36, 6.5.3.4, 6.5.10, 6.6.2, 6.10.3.8, 6.10.3.12, 6.13.9.1, 6.13.9.4, 6.17.3.2(c), 6.17.3.2(d), 9.1.5.2, 9.2

AMENDMENT DATE AFFECTED SECTIONS

November 24, 2014	Sections 2.5.1.a, 2.5.1.b, 2.5.1.d, 2.5.1.e, 2.5.1.f, 2.5.1.g, 2.5.1.h, 3.12.1, 3.12.2, 3.12.3, 3.12.4, 3.12.5.1, 3.12.5.3, 3.12.6, 3.12.6.1, 3.12.6.2, 3.12.6.3, 8.6.1
December 8, 2014	Sections 3.9, 3.13.2, 6.7.2, 6.7.3.3, 6.7.5.1, 6.7.5.2, 6.7.7.8, 6.7.8.6, 6.7.9.3, 6.7.11.1, 6.7.11.4, 6.7.12.1
March 9, 2015	Sections 5.2.16, 5.2.16.1a, 5.2.16.1b, 5.2.16.1c, 5.2.16.1d, 5.2.16.1e, 5.2.16.1f, 5.2.16.2, 6.5.4.3, 9.2
June 8, 2015	Sections 5.2.22.1, 5.2.46.1, 5.2.47.1, 6.20.8.1, 6.20.8.2.a, 6.20.8.2.b, 6.20.8.2.c
September 14, 2015	Sections 5.1.5, 5.1.6, 5.2.9.3, 9.2
November 30, 2015	Sections 5.1.6, 6.11.5.1, 6.18.12.2, 6.18.12.2.a, 6.18.12.2.b, 6.18.12.4, 6.18.12, 6.18.12.5, 6.18.13.2
March 14, 2016	Sections 5.1.6, 6.3.3, 9.2, corrected typographical errors throughout
June 13, 2016	merge in EDD uses and requirements; rename Mixed Residential Special Use; 2.5.1; 3.6.15(delete), 3.6.6; 3.8.9; 3.8.24; 3.9.5.4; 3.9.16; 4.1.4.3(delete); 4.2.9.1; 4.3.5(delete); 5.1.6; 6.3.2; 6.3.3, 6.5.9; 6.5.10.1 & 2; 6.20.16(delete impervious surface); 7.2.3(delete); 9.2 amend recreational facility (delete office uses not providing services via walk in traffic and office uses providing services to walk in client)
September 12, 2016	Amend table 6.13.3.5 minimum number of parking spaces required, amend 9.1.3.1, 9.1.5.1, 9.2
December 12, 2016	Amend 7.5.2.1, 6.2 (section deleted), amend 6.11.7.3, amend 3.13.3.d, new section inserted into 7.3, amend 3.8.5.1.a
June 12, 2017	Add Section 5.1.5 Temporary Seasonal Sales on Non-Residentially Zoned Property, Amend Section 5.2.9 to replace subsections 1 and 2, Amend section 6.7.2, Amend section 6.17.2, Amend section 6.18.12.3, 6.18.12.4, and 6.18.14.1
September 11, 2017	Amend Sections: 3.2.21 and 3.9.13, 3.8.24 and 3.9.16, 6.11.6.1, and 9.1.4
December 11, 2017	Amend 6.13.3, 6.13.5, 6.13.9, and 6.15.7
March 26, 2018	Amend Tables 5.1.6 and 5.1.7, 5.2.45.1e, 6.18.6.1, and 9.2
September 10, 2018	Amend 3.13.8, 5.2.12, Table 6.3.2, 6.18.9.8, and 9.2 (electronic gaming)

AMENDMENT DATE	AFFECTED SECTIONS
October 22, 2018	Amend 6.18.6.1 (add g)
December 17, 2018	Amend 6.15.3, 6.15.8, and 6.15.9; remove Section 6.19 (steep slopes); Table 5.1.7; Section 5.2 (drive-thru); 9.2
March 11, 2019	Amend 5.1.6 to show attached dwellings as permitted in MF and mobile home parks as permitted in MHP
June 10, 2019	Create 3.14.12; Amend 5.2.43 and 6.18.7 (changeable message signs); Amend 6.11.6 and 6.18.9.5 (string lights); Amend 6.17.7 and 9.2 (off-premise signs); and 9.2 (restaurant, convenience, other clean-up)
September 9, 2019	Section 5.2.3 (bars), 5.2.25.23 (mobile homes parks), and 5.2.43 (restaurants) Scrivener errors: 5.1.5.5 (spelling- circumstances), 5.2.40 (spelling – convenience), Table 5.1.6 to delete drive-up window (use deleted in December 2018)
December 9, 2019	Section 5.2.9.1.d (freestanding accessory dwellings - replace), Section 6.3.2 (remove impervious surface), Section 9.1.5 and 9.2 (setback measurement and graphic)
March 9, 2020	Section 5.1.7 (permitted uses, non-residential), 5.2.10 (dwellings, attached), 6.5 (buffers)
September 14, 2020	Section 3.6 (downzoning); Section 4 (removed BMP references), Section 6.20 (update stormwater); Section 9.2 (dwelling, hotel, lodging unit)
March 8, 2021	Section 2.6 and 3 (Technical Review Committee); Section 3.8 and 3.9 (waiver clarification); Section 6.7 (design standards); and Section 6.21 (fire code reference)
June 14, 2021	Section 5.2.9.2 (remove public road requirement); Section 6.3.1 (AR setbacks); Section 7.5 (limit combination of nonconforming lots); Complete ordinance – changes to comply with North Carolina General Statutes, Section 160D including use tables and assignment of Special Use Permit approval to Board of Adjustment
June 28, 2021	Section 9.2, Stormwater definitions (overlooked from June 2020 hearing)
September 13, 2021	Section 3.8.11, Notice of Evidentiary Hearing; Section 9.1.5.2.e, residential HVAC
December 13, 2021	Remove waivers: Section 1.8.2, Section 3.8.4, 3.8.19.2, 3.8.20.4 (deleted), 3.13.7.4 (deleted), 3.13.7.5, and 6.17.3.1. Add flexibility: Section 6.5.8, Section 6.11, Section 6.13.3, and Section 6.17.3.3. Change multi-family density: Section 6.3.1. Section 7.5, Setbacks for nonconforming lots

March 14, 2022	Add Sec. 3.12.14 (Emergency Admin. COA); Amend Sec. 6.17.3.1, 2 nd par. (remove permit-issuing authority ability to set payment in-lieu for low-priority sidewalks); Amend Sec. 6.17.3.2 (require sidewalks on both sides of existing/new public/private streets in multi-family/retail developments); Amend Sec. 6.21.2 (allow private streets allow in developments without formally established street network); Amend Sec. 6.21.4 entirely (change “road” to “street”); Amend 6.22.1, 6.22.2, 6.22.3, & 6.22.3.4, 6.22.5, 6.22.6 (exempt forestry mgmt., address clear-cutting, expand tree protection requirements, clarify canopy retention standards, remove tree canopy figure, add 6.22.7-tree replacement & 6.22.8-maintenance)
June 13, 2022	Amed Sec. 5.1.7 (Use Table for Residential Districts) to allow Gallery/Museum as a permitted use in the AR district; amend Sec. 8 (Enforcement) by rewriting entire section up to Demolition by Neglect
September 12, 2022	Add Sec. 3.2.5 to require other licenses/permits be obtained before issuance of zoning compliance permit and/or certificate of occupancy; Amend Section 5.2.12 (Event Centers) to remove requirement that they only be allowed in existing buildings and to remove unnecessary language;
October 10, 2022	Amend Sec. 3.7.3 (Authority to Apply) relative to PD (Planned Development) district rezonings; Add Sec. 3.7.6 requiring neighborhood information meeting for PD rezonings; Add Sec. 3.7.11 addressing PD zoning approval conditions; Amend Sec. 3.7.15 (Vesting) regarding PD development schedules and vesting; Amend Sec. 3.7.16 (Deviations, Modifications, Revocation, Expiration) to recognize PD map amendments; Add Sec. 3.13.2.3 to require site plan for property involving PD zoning; Add Sec. 4.6.1 to describe intent and application criteria for PD districts; Amend Sec. 5.2 (Use Standards) to create PD development standards; Amend Sec. 6.12 (Open Space) to be more detailed than prior requirements; Amend Sec. 9 (Definitions) to update definitions for Master Plan, Open Space, Phased Development Plan, and Site-specific Development Plan, and to add definition of Planned Development.
December 12, 2022	Amend Sec. 6.5 (Buffers), Subsect. 6.5.7 (Special Circumstances Based on Adjacent Conditions), Para. 6.5.6.2 to add provision exempting train stations from 100-foot buffer adjacent to railroad rights-of-way; Amend Sec. 6.7 (Design Requirements for All New Non-residential and Multi-family Buildings), to reduce the percentage of windows and doors on ground floor and upper floor facades, allow use of spandrel glass, make minor grammatical changes and add a photographic example of a faux window treatment.
March 13, 2023	Amend: Sec. 5.1.8 (Table: Use Table for Non-residential Districts) to add brewery and micro-brewery as uses; Sec. 6.7.10.1 to further regulate parapet walls on flat roofs; repeal Sec. 6.7.10.2 regarding roof pitch; Sec. 6.13.3.4 (Table: Minimum Number of Parking Spaces Required) to establish minimum parking for brewery & micro-brewery; & Sec. 9.2 (Definitions) to define brewery and micro-brewery.

September 11, 2023	Amend Sec. 6.13.3.4 (Table: Minimum Number of Parking Spaces Required) to change standards for Churches and Places of Worship.
October 9, 2023	Complete re-write of Sec. 6.17 (Sidewalks and Walkways)
February 12, 2024	Amend: Table 5.1.8 (Use Table for Non-Residential Districts) to permit a Government Maintenance Yard by right in the Light Industrial district; Sec. 6.5 (Buffers), Sec. 6.7 (Design Requirements for New Non-Residential and Multi-Family Buildings), and Sec. 6.13 (Parking, Loading, and Circulation) to consolidate and clarify off-street parking requirements; Sec. 6.21.2 (Applicability) to clarify that improved streets are also subject to Section 6.21; and Sec. 9.2 to correct grammar and typographical errors in the definition of Government Maintenance Yard.
March 11, 2024	Amend Sec. 6.21.3 (Design Standards – Public Streets) to allow right-of-way reductions for commercial/industrial local and collector streets under specific conditions.
June 10, 2024	Amend Table 5.1.7 (Use Table for Residential Districts) to include short-term rentals; Amend Sec. 5.2.8 (Dwelling, Accessory) to increase the maximum size for ADUs and establish location requirements for ADUs relative to the principal dwelling; Amend Sec. 5.2.18 (Home Occupation) to increase the maximum square footage for home occupations; Amend Sec. 5.2.39 (Planned Development) to correct a scrivener's error; Add Sec. 5.2.46 (Short-term rental); Amend Sec. 9.1.5 (Setbacks) to allow ADUs to encroach into side and rear yard setbacks like other accessory buildings; and Amend Sec. 9.2 (Definitions) to add a definition for "short-term rental."

1. GENERAL PROVISIONS

1.1 TITLE

This section of zoning and subdivision regulations for the Town of Hillsborough shall be referred to as the *Hillsborough Unified Development Ordinance*.

1.2 AUTHORITY

1.2.1 AUTHORITY

This Ordinance consolidates the Town's zoning and subdivision regulatory authority and is adopted pursuant to the authority contained in Chapter 160D; Chapter 143, Article 21 (Part 6) and Article 33C; and Chapter 136, Article 3A; of the North Carolina General Statutes; and the Town of Hillsborough Charter, as amended.

1.2.2 REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.2.3 APPLICATION OF ORDINANCE TO STATE-OWNED PROPERTY

Pursuant to North Carolina General Statutes§ 160D-913, the zoning regulations enacted here under authority of North Carolina General Statutes Chapter 160D, are applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions; provided, however, that land owned by the State may not be included in an overlay district or conditional district enacted under that part without approval of the Council of State.

1.3 GENERAL PURPOSE AND INTENT

1.3.1 GENERAL PURPOSE

The purpose of this Ordinance is to accomplish compatible development of the land and to guide and regulate the subdivision of land within the planning jurisdiction of the Town of Hillsborough in a manner which will best promote the public health, safety, and general welfare; to provide for sound use of land; to promote efficiency, energy conservation, and economy in development; to make adequate provisions for traffic; to secure safety from fire, flooding, panic, and other hazards; to provide for adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the stability of neighborhoods; to protect property against blight and depreciation; to ensure accessibility for handicapped persons; to insure the proper legal description and documentation of subdivided land; to regulate and restrict the height, number of stories, and size of buildings, the percentage of lots that may be occupied; the size of yards, courts and open spaces; and to encourage the proper management of Hillsborough's natural resources.

1.3.2 PROTECTION OF WATER RESOURCES

It is the expressed purpose of this Ordinance to provide for, in addition to the above, the protection of water resources in Hillsborough, through the use, alone or in combinations, of buffer zones, varying lot sizes, slope restrictions, vegetation, or other equally effective techniques. Innovative techniques on the part of the developer are encouraged where these techniques can be shown to be as effective as the specific requirements of the Ordinance.

1.4 APPLICABILITY AND JURISDICTION

1.4.1 GENERAL APPLICABILITY

The provisions of this Ordinance shall apply to all portions of the Town of Hillsborough and its extraterritorial jurisdictions as defined in an Ordinance adopted and recorded in the Orange County Registry of Deeds.

1.4.2 REQUIRED CONFORMANCE TO PROVISIONS

Except as otherwise specifically provided in this Ordinance, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, no land shall be subdivided, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this Ordinance.

1.5 RELATIONSHIP WITH OTHER LAWS

1.5.1 PRIVATE PROPERTY RIGHTS

Neither this Ordinance, nor any material included herein by reference nor material used for the administration of this Ordinance, are intended to, nor do they take any property, property right, nor property use, nor convert any of these to public use except by due process of law.

1.5.2 CONFLICTS WITH OTHER LAWS, ORDINANCES OR REGULATIONS

1.5.2.1 Wherever the provisions of this Ordinance are in conflict with the provisions of any other law, ordinance, or regulation, the standards of the more restrictive law, ordinance, or regulations shall govern.

1.5.2.2 The adoption of this Ordinance shall have the following effect upon violations of the previous ordinance that existed on the effective date of this Ordinance:

1.5.2.2.a If the circumstances that constituted the violation under the previous ordinance do not constitute a violation under this Ordinance, then no further punitive or corrective action shall be taken with respect to the previous violation.

1.5.2.2.b If the situation that constituted the violation under the previous ordinance continues to constitute a violation under this Ordinance, then appropriate corrective or punitive action may be taken under this Ordinance.

1.5.2.2.c If a non-conforming situation or condition was created under the previous ordinance and that non-conforming situation or condition resulted in a violation of that ordinance, and the violation consisted of the failure to correct or terminate the non-conforming situation when required to do so under the

previous Ordinance, and under the new Ordinance the situation or condition is still not permissible, then passage of the new Ordinance shall not prevent appropriate enforcement action to require the termination of the non-conforming situation, even if termination of the non-conforming situation would not be required under this Ordinance.

1.6 OFFICIAL ZONING MAP

1.6.1 GENERALLY

The Official Zoning Map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The Official Zoning Map shall be kept on file in the Planning Department and is available for public inspection during normal business hours. The original official version of the map shall be certified by the Planning Director. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the town and shall only be amended in accordance with this Ordinance. In accordance with North Carolina General Statutes§ 160D-105, the Town Clerk shall certify the Official Zoning Map for use as evidence in a court of law.

1.6.2 INCORPORATED BY REFERENCE

The Official Zoning Map, and all the notations thereon, is incorporated herein by reference and made part of this Ordinance.

1.6.3 ZONING CLASSIFICATION OF LANDS ADDED TO JURISDICTION

1.6.3.1 Town Board Determination

The Town Board shall determine the zoning designation of lands added to the town's jurisdiction through annexation or through extensions of the Town's extraterritorial jurisdiction at the time such lands are added based on the following factors:

- 1.6.3.1.a** The land's designation on adopted plans addressing the town's growth and development.
- 1.6.3.1.b** The land's current land use.
- 1.6.3.1.c** The existence of a previously approved site or subdivision plan.
- 1.6.3.1.d** The character of adjacent lands.
- 1.6.3.1.e** Current county zoning classifications.
- 1.6.3.1.f** Landowner requests and
- 1.6.3.1.g** Other factors considered relevant at the time of the annexation.

1.6.3.2 Relationship to Voluntary Annexation Requests

Where an area is proposed to be added to the town's jurisdiction through a landowner's petition for voluntary annexation, the landowner may submit an application for a Zoning Map Amendment (See Section 3.7) requesting a specific zoning district classification along with the annexation petition. In such a case, the legislative hearing for the Zoning Map Amendment application may be held concurrently with any legislative hearing required for the annexation.

1.6.3.3 Relationship to Involuntary Annexation

Where an area is proposed to be added to the town's jurisdiction through the involuntary annexation process, a landowner may submit an application for a Zoning Map Amendment (See Section 3.7) requesting a specific zoning district classification.

1.6.4 INTERPRETATION OF OFFICIAL ZONING MAP BOUNDARIES

1.6.4.1 The Planning Director shall be responsible for interpretations of the Official Zoning Map in accordance with the following requirements:

1.6.4.1.a Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.

1.6.4.1.b Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving ten feet or less, the zoning boundary shall be interpreted as moving with the property line.

1.6.4.1.c Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).

1.6.4.1.d Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundary as they existed when the boundary was established.

1.6.4.1.e Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

1.6.4.2 If the specific location of a depicted boundary cannot be determined from notations on the Official Zoning Map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.

1.6.4.3 Where the actual locations of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances not covered by this subsection, the Planning Director shall have the authority to interpret the district boundaries. Appeals of the Planning Director's decision shall be reviewed by the Board of Adjustment in accordance with Section 3.11, *Appeal*.

1.6.5 CHANGES TO OFFICIAL ZONING MAP

Changes made in zoning district boundaries, including requests for a rezoning, or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of Section 3.7 of this Ordinance. Changes shall be entered on the Official Zoning Map by the Planning Director promptly after the amendment is approved by the Town Board. Where the ordinance

enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Planning Director may enter on the Official Zoning Map notations reflecting the ordinance wording. The Planning Director shall maintain copies of superseded versions of the Official Zoning Map for historical reference.

1.7 TRANSITIONAL PROVISIONS

1.7.1 EFFECTIVE DATE

This Ordinance shall become effective on March 1, 2011 and repeals and replaces the Hillsborough Zoning Ordinance and Subdivision Regulations, as originally adopted on February 17, 1986 and July 20, 1988, respectively, and subsequently amended.

1.7.2 VIOLATIONS CONTINUE

Subject to the specific provisions of Section 1.5.2.2 above, any violation of the previous zoning regulations or subdivision regulations shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes. Violations of this Ordinance shall be subject to the penalties set forth in Section 8, *Enforcement*, and any other applicable ordinances, laws, or statutes, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

1.7.3 COMPLETE APPLICATIONS

Any development application submitted and accepted as complete before March 1, 2011, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. No application shall be considered complete unless and until the entire application fee has been paid in accordance with the current fee schedule. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Section 7, *Nonconformities*.

Subject to the permit choice provision authorized by statute and stated in section 1.7.3.3 below, completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time the application is accepted as complete. If a development is approved, but work does not commence and continue within the required time frames, it shall expire, and future development of the property shall be subject to the requirements of this Ordinance.

An applicant with a pending complete application at the time that this Ordinance is amended in a way that might affect the application may opt to have the application reviewed and decided under the standards of this Ordinance, as amended, by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

1.7.4 APPROVED APPLICATIONS

Any development approval granted before the effective date of this Ordinance shall remain valid until its expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (e.g., for failure to comply with the terms and conditions of

approval), any subsequent development application for the site shall be subject to the procedures and standards of this Ordinance. To the extent that the holder of a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Section 7, *Nonconformities*.

1.7.5 NONCONFORMITIES

If any use, structure, lot, or sign legally existed on March 1, 2011, but does not fully comply with the standards of this Ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this Ordinance and shall be controlled by the provisions of Section 7, *Nonconformities*.

1.8 VESTED RIGHTS

1.8.1 ESTABLISHMENT

A vested right pursuant to North Carolina General Statutes§ 160D-108 shall be deemed established with respect to real property subject to the Town of Hillsborough zoning jurisdiction upon approval by the permit-issuing authority of a site-specific development plan or phased development plan following notice and legislative or evidentiary hearing as required by this Ordinance. The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable types or intensity of uses, or the application of ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific or phased development plan development plan upon the expiration or termination of the vested right in accordance with this chapter.

1.8.2 SITE-SPECIFIC AND PHASED DEVELOPMENT PLANS

1.8.2.1 Phased Development Plan

“Phased Development Plan” means a plan of land development which has been submitted to the Town by a landowner for phased development describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of land but with a lesser degree of certainty than any plan determined by the Town to be a Site-specific Development Plan. A “Master Plan” is a type of Phased Development Plan. Approval of a Master Plan pursuant to Section 3.7 of this Ordinance shall trigger a vested right. A Phased Development Plan shall be deemed approved upon the effective date of the permit issuing authority’s action.

1.8.2.2 Site-Specific Development Plan

“Site-specific Development Plan” means a plan of land development submitted to the town by a landowner that describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of land. A Special Use Permit issued pursuant to Section 3.8 of this Ordinance is the only site-specific development plan recognized in this ordinance.

1.8.2.2.a To qualify as a Site-specific Development Plan, the plan submitted, shall include the following information: total acreage of the site; approximate boundaries of

the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of all proposed buildings and other structures (including roads and parking facilities); maximum gross floor areas and impervious surface; and the infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

- 1.8.2.2.b** The permit-issuing authority may approve a Site-specific Development Plan upon such terms as may be reasonably necessary to protect the public health, safety, and welfare. The specific requirements of other sections of this Ordinance shall be the presumptive minimum standards which applicants must meet.

1.8.3 VESTED RIGHT

- 1.8.3.1** "Vested right" means the right to undertake and complete the development and use of property under terms and conditions of an approved building permit, or an approved site-specific or phased development plan, including any amendments thereto. Conditional approval of a site-specific or phased development plan shall result in a vested right, although failure to abide by such terms and conditions will result in forfeiture thereof.
- 1.8.3.2** A variance shall not constitute a site-specific or phased development plan, and a site-specific or phased development plan with a condition that a variance be obtained shall not confer a vested right unless the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site-specific or phased development plan.

1.8.4 DURATION AND TERMINATION OF STATUTORY VESTED RIGHTS

- 1.8.4.1** An approved Site-specific Development Plan which has been vested as provided for in this section shall remain vested for a period of two (2) years from the date of approval. This vesting shall not be extended by any amendments or modifications to a Site-specific Development Plan unless the property owner (or authorized agent) requests an extension in writing, and the permit-issuing authority approves such extension.
- 1.8.4.2** An approved Phased Development Plan which has been vested as provided for in this section shall remain vested for a period of five (5) years. The developer or landowner must submit a site-specific development plan for approval with respect to each phase in order to obtain final development approval for such phase. This vesting shall not be extended by any amendments or modifications to a Phased Development Plan unless the property owner (or authorized agent) requests an extension in writing, and permit-issuing authority approves such extension.
- 1.8.4.3** Following approval or approval with conditions of a Site-specific or Phased Development Plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the Town from revoking the original approval for failure to comply with applicable terms and conditions of approval or this

Ordinance. Upon revocation, the vesting of rights provided for under this section shall be terminated.

- 1.8.4.4** A property owner who claims a common law vested right for a property may request the Planning Director to acknowledge in writing the existence of common law vested rights for the property.

1.8.5 EXCEPTIONS

Subject to Section 1.8.4 of this Ordinance, a vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific development or phased development plan, except:

- 1.8.5.1** With written consent of the affected landowner;
- 1.8.5.2** Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan;
- 1.8.5.3** To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner. Compensation shall not include any diminution in the value of the property which is caused by such action;
- 1.8.5.4** Upon finding, by ordinance after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the town of the site-specific or phased development plan; or
- 1.8.5.5** Upon enactment or promulgation of a state or federal law or regulation which precluded development as contemplated in the site-specific development plan, in which case the Town may modify the affected provisions, upon finding that the change in the state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

1.9 SEVERABILITY

1.9.1 INTENT

It is the intent of the Town Board in enacting this Ordinance that, if any portion, clause, or sentence of this Ordinance shall be deemed invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this Ordinance.

It is the legislative intent of the Town Board in adopting this Ordinance that all provisions and sections thereof shall be literally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the Town of Hillsborough and, further, that should any provision, portion, section, or subsection of this Ordinance be held to be construed as affecting the validity of any of the remaining provisions, portions, sections, or subsections it is the intent of the Town Board that this Ordinance shall stand, notwithstanding the invalidity of any provision, or section, or part thereof.

2. ADMINISTRATION

2.1 REVIEW AND DECISION-MAKING BODIES

2.1.1 The following bodies and town staff have powers and responsibilities in administering and reviewing applications for development under this Ordinance:

Town Board,
Planning Board,
Board of Adjustment,
Historic District Commission,
Technical Review Committee, and
Planning Director.

In addition to the decision-making bodies listed in this section, other Town boards and commissions may review and comment on specific application types during the review process as specified in the Town of Hillsborough's Administrative Manual, referred to from time to time in this Ordinance.

2.1.2 CONFLICTS OF INTEREST

2.1.2.1 Members of the decision-making bodies shall not vote on advisory or legislative decisions regarding this ordinance or an amendment thereto (text or map) where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to the rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.1.2.2 Members of the decision-making bodies shall not participate in or vote on any quasi-judicial matter in a manner that would violate the affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process 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 financial interest in the outcome of the matter.

2.1.2.3 For the purposes of this section, a close familial relationship means a spouse (domestic partner), parent, child, sibling, grandparent, or grandchild. The term includes step, half, and in-law relationships.

2.2 BOARD OF COMMISSIONERS/TOWN BOARD

2.2.1 POWERS AND DUTIES

The Board of Commissioners (sometimes referred to in this Ordinance as "Town Board") has the following responsibilities in relation to this Ordinance:

2.2.1.1 Hear and decide applications for amendments to the text, schedules, and map

portions of this Ordinance.

- 2.2.1.2** Establish rules of procedure for the conduct of legislative hearings and other proceedings before the Town Board.
- 2.2.1.3** Make the necessary appointments to the Planning Board, Board of Adjustment, and Historic District Commission.
- 2.2.1.4** Provide by appropriation, funds for the administration of this Ordinance.
- 2.2.1.5** Such other actions as are, or may be, authorized by North Carolina General Statutes Chapter 160D.

2.2.2 MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

Membership, appointment, and terms of office for Town Board members are established in Article 2, Mayor and Board of Commissioners, of the Hillsborough Code of Ordinances (the "Town Code").

2.2.3 QUORUM AND NECESSARY VOTE

Quorum and voting requirements are established in Article 2 of the Town Code.

2.2.4 RULES OF PROCEDURE

Amendments to this Ordinance shall be processed in accord with the provisions of Section 3.6, *Unified Development Ordinance, Future Land Use Plan, and Comprehensive Plan Amendments*, and with the Rules of Procedure of the Town Board and of the Planning Board. The Town Board, in exercising this power, is bound by the State's enabling legislation, the terms of this Ordinance, and applicable court decisions in carrying out its legislative function.

2.3 PLANNING BOARD

The Planning Board is hereby established in accordance with the North Carolina General Statutes.

2.3.1 POWERS AND DUTIES

The Planning Board shall have the following powers and duties:

- 2.3.1.1** Make studies of Hillsborough and surrounding areas.
- 2.3.1.2** Determine objectives to be sought in the development of Hillsborough.
- 2.3.1.3** Propose and recommend plans for achieving these objectives.
- 2.3.1.4** Develop and recommend to the Town Board policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- 2.3.1.5** Advise the Town Board concerning the use and amendment of means for carrying out plans.
- 2.3.1.6** Exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this or other ordinances of the Town.

- 2.3.1.7** Gather maps and aerial photographs of man-made and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the area, land use, and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in Hillsborough and its various parts as background for its Comprehensive Plan and any ordinances it may prepare.
- 2.3.1.8** Make, cause to be made, or obtain Special studies on the location, condition, and adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; traffic, transportation, parking facilities; environmentally critical areas and important natural resources. All Town officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work.
- 2.3.1.9** Approve and recommend for adoption by the Town Board a Comprehensive Plan for the development of the Town, and amendments hereto.
- 2.3.1.10** Prepare and recommend to the Town Board new ordinances or amendments to existing ordinances, including this Ordinance, which will have the effect of implementing the Comprehensive Plan.
- 2.3.1.11** Make recommendations, upon referral, upon all such matters as the Board of Commissioners may from time to time refer to it for a recommendation.
- 2.3.1.12** Engage in a program of information dissemination to the public and officials.
- 2.3.1.13** Establish committees of Planning Board members to assist in its functions.
- 2.3.1.14** Perform all necessary actions in support of its duties and powers.
- 2.3.1.15** Perform other related duties as may be assigned by this Ordinance or other ordinances.

2.3.2 MEMBERSHIP

The Hillsborough Planning Board shall consist of at least ten (10) members. Members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties.

2.3.3 APPOINTMENT AND REPRESENTATION

Every member of the board shall be a resident of Orange County. Seven (7) members shall be citizens and residents of the Town of Hillsborough and shall be appointed by the Town Board ; three (3) members shall be citizens and residents of the extraterritorial jurisdiction and shall be appointed by the Orange County Board of Commissioners as set forth in North Carolina General Statutes, Section 160D-202.

Within 60 days of the release of detailed population data from each decennial census, the Planning Director shall report to the Board of Commissioners the proportion of residents in city limits and in the extraterritorial area as can be determined using block group data. The Planning

Director shall also recommend any adjustment in membership distribution needed to maintain the proportional representation and a schedule by which to implement any needed adjustments, not to exceed one calendar year from the date of data availability.

2.3.4 OATH OF OFFICE

Members of the Planning Board shall take an oath of office before the town clerk or a notary public prior to beginning their duties. Signed copies of the oath shall be filed by the town clerk.

2.3.5 TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term. A member may be appointed for a second successive term, but after two (2) consecutive full terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of completion of the second full term. Further policies and procedures about volunteer board appointments may be established by the Town Board in the Town Code.

2.3.6 STAFF

The Planning Director shall provide staff support to assist the Planning Board in carrying out its duties.

2.3.7 MEETINGS

2.3.6.1 Meeting Minutes

The Board shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2.3.6.2 Open to the Public

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by Article 33C, Chapter 143 of the North Carolina General Statutes, as amended.

2.3.8 QUORUM AND NECESSARY VOTE

2.3.7.1 A quorum for conduct of business of the Board shall be a majority of the appointed members.

2.3.7.2 An affirmative vote of the majority of Board members present and constituting a quorum is required for all decisions of the Planning Board.

2.3.9 RULES OF PROCEDURE

The Board shall adopt Rules of Procedure and regulations for the conduct of its affairs. Rules of Procedure shall be consistent with the procedural requirements of this Ordinance and state law.

2.4 BOARD OF ADJUSTMENT

A Board of Adjustment is hereby established in accordance with the North Carolina General Statutes.

2.4.1 POWERS AND DUTIES

The Board of Adjustment shall have the following powers:

- 2.4.1.1** Hear, review, and decide appeals from and review any order, requirement, decision, or determination made by the Planning Director in the performance of official duties.
- 2.4.1.2** Hear and decide applications for the approval of Special Uses requiring Board of Adjustment approval, in accordance with the rules and conditions set forth in Section 3.8, *Special Use Permits*.
- 2.4.1.3** Hear and decide applications for variances in accordance with Section 3.10, *Variances*. Nothing in this Ordinance shall be construed to authorize the Board of Adjustment to permit a use in a district where that use is neither a permitted use nor Special Use.
- 2.4.1.4** Pass upon, decide, or determine such other matters as may be required by this Ordinance.

2.4.2 MEMBERSHIP

The Hillsborough Board of Adjustment shall consist of five members and two (2) alternate members. Members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties.

2.4.3 APPOINTMENT AND REPRESENTATION

Every member of the board shall be a resident of Orange County. Two (2) members and one alternate shall be citizens and residents of the Town of Hillsborough and shall be appointed by the Town Board; two (2) members and one alternate shall be citizens and residents of the territory surrounding the Town as described in the North Carolina General Statutes, Chapter 160D-202 and 160D-302, and shall be appointed by the Orange County Board of Commissioners. One regular member shall be a member of the Planning Board, elected by the Planning Board during its annual organizational meeting, who shall have full rights, privileges and duties. The members appointed as extraterritorial members shall have equal rights, privileges, and duties as other board members, regardless of whether the matters at issue arise within the town or the extraterritorial area.

Within 60 days of the release of detailed population data from each decennial census, the Planning Director shall report to the Board of Commissioners the proportion of residents in city limits and in the extraterritorial area as can be determined using block group data. The Planning Director shall also recommend any adjustment in membership distribution needed to maintain the proportional representation and a schedule by which to implement any needed adjustments, not to exceed one calendar year from the date of data availability.

2.4.4 OATH OF OFFICE

Members of the Board of Adjustment shall take an oath of office before the town clerk or a notary public prior to beginning their duties. Signed copies of the oath shall be filed by the town clerk.

2.4.5 TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term. A member may be appointed for a second successive term, but after two (2) consecutive full terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of completion of the second full term. Further policies and procedures

about volunteer board appointments may be established by the Town Board in the Town Code.

2.4.6 STAFF

The Planning Director shall provide staff support to assist the Board of Adjustment in carrying out its duties.

2.4.7 MEETINGS

2.4.6.1 Meeting Minutes

The Board shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2.4.6.2 Open to the Public

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by Article 33C, Chapter 143 of the North Carolina General Statutes, as amended.

2.4.8 QUORUM AND NECESSARY VOTE

2.4.7.1 A quorum of the Board of Adjustment, necessary to conduct any business of the Board, shall consist of four (4) members.

2.4.7.2 A simple majority vote of those Board members present shall be sufficient to approve a Special Use Permit pursuant to Section 3.8 and to conduct administrative business of the Board.

2.4.7.3 The concurring vote of four (4) of the members of the Board shall be necessary to decide in favor of the applicant or appellant when the board is reviewing a Variance pursuant to Section 3.10 of this Ordinance.

2.4.9 RULES OF PROCEDURE

The Board shall adopt Rules of Procedure and regulations for the conduct of its affairs. Rules of procedure shall be consistent with the procedural requirements of this Ordinance and state law.

2.5 HISTORIC DISTRICT COMMISSION

The Hillsborough Historic District Commission is hereby established in accordance with North Carolina General Statute § 160D-303.

2.5.1 POWERS AND DUTIES

The Historic District Commission shall have the following powers:

2.5.1.1 Pass upon the appropriateness of the alteration, location or relocation, or demolition of any building, structure, site, or appurtenant feature on a property which has been designated as a landmark or is located within an Historic District; and issue a Certificate of Appropriateness if approved. This shall include location of buildings and structures on the site to the extent that location impacts the congruity with the overall character of the landmark or the District.

2.5.1.2 Pass upon the appropriateness of exterior architectural features, including signs and other

exterior features of any new building or structure to be constructed at a property which has been designated as a landmark or is located within an Historic District. This shall include location of new buildings, structures and signs on the site to the extent that location impacts the congruity with the overall character of the district.

- 2.5.1.3** Cooperate with other town boards or commissions or with agencies of the Town or other governmental units; offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest.
- 2.5.1.4** Recommend to the Planning Board districts or areas to be designated by the Ordinance as "Historic Districts." Recommend to the Town Board properties to be designated by ordinance as landmarks.
- 2.5.1.5** Recommend to the Planning Board that designation of any district or area as a Historic District be revoked or removed. Recommend to the Town Board that designation of any property, district or area as a landmark be revoked or removed.
- 2.5.1.6** Give advice to property owners concerning the treatment of the historical and visual characteristics of their properties which has been designated as landmarks or are located within an Historic District, such as color schemes, gardens, and landscaping features and minor decorative elements.
- 2.5.1.7** Propose to the Planning Board changes to this or any related Ordinance and to propose new Ordinances or laws relating to designated landmarks, Historic Districts or relating to the total program for the development of the historical resources of the Town and its environs.
- 2.5.1.8** Publish information about, or otherwise inform the owners of property designated as landmarks or located within an Historic District, of any matters pertinent to its duties, organization, procedures, responsibilities, functions, or requirements.
- 2.5.1.9** Undertake programs of information, research, or analysis relating to any matters under its purview.
- 2.5.1.10** Report violations of this Ordinance, or related ordinances to the local official responsible for enforcement.
- 2.5.1.11** Assist the Town staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis.
- 2.5.1.12** Recommend to the Town Board and the State of North Carolina structures, sites, objects, or districts worthy of national, state, or local recognition.
- 2.5.1.13** Initiate and participate in negotiations with owners and other parties in an effort to find means of preserving structures or buildings scheduled for demolition or sites scheduled for destruction.
- 2.5.1.14** Establish guidelines under which the Planning Director with approval of the Commission Chairperson may approve minor modifications on behalf of the Commission. No application

shall be considered denied without first being considered by the Commission.

- 2.5.1.15** Conduct evidentiary hearings on applications for Certificates of Appropriateness.
- 2.5.1.16** Organize itself and conduct its business by whatever legal means it deems proper.
- 2.5.1.17** Exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, the General Statutes of North Carolina, or by the Town Board.
- 2.5.1.18** Review and offer comments on Special Use Permits for properties located within the Historic Overlay district. The commission may not accept public comment on these reviews. Any comments or recommendations must be reduced to writing and presented both verbally and in writing at the evidentiary hearing on the application by a Commission member.

2.5.2 MEMBERSHIP

The Commission shall consist of seven (7) regular members. A majority of the members shall be qualified by Special interest, knowledge, or training in such fields as history, architecture, archaeology, or related fields. All members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties.

2.5.3 APPOINTMENT

Every member shall reside within the zoning jurisdiction of the Town of Hillsborough and shall be appointed by the Town Board.

2.5.4 TERMS OF OFFICE

The tenure of office shall be three (3) years. Appointments to fill vacancies shall be for the unexpired term. A member may be appointed for a second successive term, but after two (2) consecutive full terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of completion of the second full term.

2.5.5 STAFF

The Planning Director shall provide staff support to assist the Historic District Commission in carrying out its duties.

2.5.6 MEETINGS

2.5.6.1 Meeting Minutes

The Commission shall maintain minutes of its meetings as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data, and testimony presented to it.

2.5.6.2 Open to the Public

All meetings of the Commission shall be open to the public and the Commission shall cause notices to be given as required by Article 33C, Chapter 143 of the North Carolina General Statutes, as amended.

2.5.7 QUORUM AND NECESSARY VOTE

- 2.5.7.1** A quorum of the Commission necessary to conduct any business shall consist of four (4) members.

- 2.5.7.2** The concurring vote of a majority of the quorum present, but no fewer than three (3), of the members of the Commission shall be necessary in order to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance.

2.5.8 RULES OF PROCEDURE

The Commission shall adopt Rules of Procedure and regulations for the conduct of its affairs. Rules of procedure shall be consistent with the procedural requirements of this Ordinance and state law.

2.6 TECHNICAL REVIEW COMMITTEE

The Technical Review Committee is hereby established.

2.6.1 POWERS AND DUTIES

The Technical Review Committee is an advisory group of Town staff members and outside agencies (as necessary) who meet to review and comment on development applications, discuss other matters related to the Town's review and management of development, and to perform such other duties as may from time to time be delegated to it by the Town Board. In addition, the Technical Review Committee may also undertake the following duties:

- 2.6.1.1** Conduct pre-application conferences.
- 2.6.1.2** Provide expertise and assistance to the Planning Director in compiling and maintaining an Administrative Manual and in establishing application content requirements and a submission schedule for review of applications and appeals and
- 2.6.1.3** Provide expertise and technical assistance to the Town's other decision-making bodies, upon request.

2.6.2 MEMBERSHIP

The Technical Review Committee shall consist of at least four (4) members – the Planning Director, the Utilities Director, the Stormwater and Environmental Services Manager, and the Public Works Director, or their designees. Representatives from other Town, Orange County and State departments, as well as local service providers (e.g., Duke Energy), may be asked to participate in meetings.

2.6.3 MEETINGS

The Technical Review Committee shall establish a regular meeting schedule meeting frequently enough to act as expeditiously as practicable on matters before it. The Planning Director may adjourn a regular meeting on determining there are no agenda items for consideration and may call emergency or Special meetings as necessary.

Applicants may be invited to attend meetings as necessary to answer questions from, or provide clarifications requested by, Technical Review Committee members.

Written comments of Committee members shall be filed with the Planning Department and delivered to applicants with projects under review.

2.7 TOWN STAFF

2.7.1 PLANNING DIRECTOR

The provisions of this Ordinance shall be administered by the Planning Director, who shall be appointed by the Town Board. Unless specified by the context, the term “Planning Director” also includes members of the Planning Department staff to whom some planning responsibilities may be assigned from time to time. The “Planning Director” is sometimes referred to in this Ordinance as the “Zoning Officer.”

2.7.1.1 Powers and Duties

The Planning Director has the following responsibilities in relation to this Ordinance:

- 2.7.1.1.a** Administer and enforce this Ordinance.
- 2.7.1.1.b** Issue required permits and certificates as authorized by this Ordinance, including attaching conditions as specified by the approval authority or as needed to ensure compliance with provisions of this Ordinance and the Administrative Manual.
- 2.7.1.1.c** Conduct inspections of buildings or premises and perform other procedures necessary to carry out the enforcement of this Ordinance. In connection with the enforcement of this Ordinance, the Planning Director shall make all necessary determinations and interpretations as required by this Ordinance. Persons aggrieved by a decision or a determination made by the Planning Director may appeal that action to the Board of Adjustment.
- 2.7.1.1.d** Issue a Stop Work Order if a project is found to be under construction without a Zoning Compliance Permit, if a Zoning Compliance Permit is revoked or if work being undertaken is contrary to this Ordinance or any permit issued pursuant to this Ordinance.
- 2.7.1.1.e** Revoke a Zoning Compliance Permit if it is found to have been issued in violation of any provisions of this Ordinance, or if the conditions as stated on the permit are not carried out.
- 2.7.1.1.f** Provide administrative, technical, and professional support to the Town Board, Planning Board, Board of Adjustment, Historic District Commission and any advisory committee established hereunder.
- 2.7.1.1.g** Prepare written staff reports and recommendations on all proposed amendments to this Ordinance, applications for approval of Special Uses, applications for certificates of appropriateness, applications for variances, and appeals from orders, decisions, determinations, and requirements made in enforcing this Ordinance.
- 2.7.1.1.h** Act as liaison with other Town departments, representatives of other local governmental units, of the State of North Carolina and of the United States.
- 2.7.1.1.i** Maintain data, maps, and other information necessary to discharge his/her responsibilities.

2.7.1.1.j Provide appropriate services to encourage the participation of citizens of Hillsborough in the discharge of his/her responsibilities.

2.7.1.1.k Perform such other duties as may be directed by the Town Board.

2.7.1.2 CONFLICTS OF INTEREST

No staff member shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff members has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other person as may be designated by this ordinance or the town code.

No staff member shall be financially interested in or employed by a business that is financially interested in a development subject to this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the town to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the town, as determined by the town.

2.8 COMPREHENSIVE PLAN

2.8.1 INTENT

The Comprehensive Plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing coordinated and harmonious development of the Town which will, in accordance with present and future needs, best promote health, safety, and the general welfare, as well as efficiency in the process of development; including, among other things, adequate provisions for transportation and traffic, the promotion of safety from fire and other dangers, adequate provision of light and air, the promotion of healthful and convenient distribution of population, the promotion of public funds, adequate provision of public utilities, services, and other public requirements, and conservation of significant natural and man-made resources within the Town and its jurisdiction.

The Comprehensive Plan shall constitute the Town Board's recommendation for the physical development of that portion of the County under Town jurisdiction. The recommendations included in the plan shall address in whole or part such things as the goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within the Town's planning jurisdiction, and shall include a unified physical design for the public and private development of land and water. All applications for development approval shall be considered in relation to, and for conformity with, the Comprehensive Plan.

In adopting or amending the Comprehensive Plan, the Board shall ever be mindful of the need to balance the public interest with the needs of private interests, particularly in the conservation of surface and underground water resources, soil resources, and natural growth resources of the Town and the efficient use of the renewable and non-renewable sources of energy.

2.8.2 ELEMENTS OF COMPREHENSIVE PLAN

The Comprehensive Plan may include a land use plan, maps, plats, charts, small area plans, task force reports, or other official statements, reports, or plans that are officially approved by resolution of the Town Board, and are part of the underlying policy of the Town.

2.8.3 PREPARATION OF COMPREHENSIVE PLAN

Upon request by the Town Board, the Planning Board has the authority to initiate and oversee the process for developing and amending the Town's Comprehensive Plan.

2.8.4 ADOPTION OF COMPREHENSIVE PLAN

The Town Board, upon receipt of a recommended Comprehensive Plan and/or portions thereof from the Planning Board, shall consider such recommendations and may approve, approve with modifications, or deny the recommended Comprehensive Plan or amendments thereto.

Prior to the adoption or amendment of the Comprehensive Plan, the Board of Commissioners shall hold a legislative hearing thereon. Notice of the legislative hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the Town, stating the time and place of such hearing, and the substance of the proposed plan or amendment. This notice shall appear in said newspaper for two (2) consecutive weeks with the first notice appearing not less than ten (10) days nor more than twenty-five (25) days before the date set for the legislative hearing.

Proposed amendments to the adopted Comprehensive Plan shall follow the process outlined in Section 3.6, *Unified Development Ordinance, Future Land Use Plan, and Comprehensive Plan Amendment*.

3. ADMINISTRATIVE PROCEDURES

3.1 ADMINISTRATIVE MANUAL

The Town of Hillsborough's *Administrative Manual*, provides information relevant to the day-to-day use of this Ordinance. The Manual provides guidance in the use of this Ordinance, consolidates information on the development review processes, and explains review procedures and requirements. References to the *Administrative Manual* are made in this Ordinance. This Manual is intended to supplement, and not as a substitute for, this Ordinance.

3.2 APPLICABLE TO ALL REVIEW PROCESSES

3.2.1 COMPLETE APPLICATIONS

All applications for any approval required by this Ordinance must be complete. Planning Director will establish application deadlines to allow time to review applications for completeness before continuing the application process. Applicants who submit incomplete applications will receive a written notice stating the information needed to complete the application and a date by which the information must be submitted to maintain the review schedule. No application will be considered complete until all fees required by the Town's fee schedule have been paid in full. Application Packets including application deadlines, submittal requirements, and application forms can be found in the *Administrative Manual*.

3.2.2 EXPEDITIOUS REVIEW

Town shall make every reasonable effort to process applications expeditiously, consistent with the need to ensure that all development conforms to the requirements of this chapter.

3.2.3 FEES

Filing fees for all development approvals pursuant to this ordinance shall be established by the Fee Schedule adopted by the Town Board. The fee schedule can be found in the *Administrative Manual*.

3.2.4 AUTHORITY TO FILE

Applications for any approval or permit required by this Ordinance must be signed by the property owner, a designated owner's agent, or a contract purchaser of a property with authorization of the property owner. Written proof of authority must be submitted with every application.

3.2.5 PERMIT ISSUANCE

Unless otherwise designated in this ordinance, the Town shall not issue or sign off on any building permit or certificate of occupancy for any use requiring additional state, county, or local permits or licenses that have not yet been obtained or are not working toward being obtained as demonstrated by the applicant.

3.3 COMPREHENSIVE REVIEW OF CHAPTER

The Planning Board shall, from time to time, but not less frequently than every five (5) years, examine the provisions of this Ordinance and the location of Zoning District boundary lines, and shall submit a report to the Town Board recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare, mindful of the intent expressed in Section 1.3, *General Purpose and Intent*.

3.4 TYPOGRAPHICAL ERRORS

Typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or other purely non-substantive editorial changes may be corrected by the Planning Director without formal adoption by the Town Board provided that such corrections do not change the meaning of the Ordinance.

Any correction made pursuant to this section shall be reported in writing to the Town Board and made a part of the Board's regular meeting minutes.

3.5 CREATION OF NEW LOTS/DIVISION OF LAND

3.5.1 REVIEW REQUIRED

No land within the Town of Hillsborough planning jurisdiction shall be subdivided, or re-subdivided and offered for sale, gifted, exchanged, or in any other way conveyed until a plat thereof has been approved as herein provided. No plat shall be recorded by the Orange County Register of Deeds until this approval is entered in writing on the face of the plat as herein provided.

3.5.2 THE REVIEW REQUIRED IS DETERMINED BY THE NUMBER OF NEW LOTS TO BE CREATED AS FOLLOWS:

- 3.5.2.1** Exempt plats: Staff review, must meet standards in Section 3.5.3 below.
- 3.5.2.2** Minor subdivisions: Staff review to create 4 or fewer lots.
- 3.5.2.3** Major subdivisions: Staff review to create 5-19 lots.
- 3.5.2.4** Special subdivisions: Special Use Permit review by the Board of Adjustment to create 20 or more lots.
- 3.5.2.5** Conservation subdivisions: Special Use Permit review by the Board of Adjustment to create 20 or more lots, but less than 100 lots with reduced lot sizes and additional open space

3.5.3 EXEMPT PLATS

- 3.5.3.1** Property owners or their authorized agents must present a paper or recordable map to the Planning Department for determination of whether the action created by the recording of the map meets the Ordinance standards to be exempt.
- 3.5.3.2** If the proposal meets the exemptions listed in this Ordinance or in North Carolina General Statutes, Section 160D-802(a), the Planning Director shall sign an exemption note on the face of the recordable map before it is recorded.

3.5.3.3 In addition to the divisions of land identified in North Carolina General Statutes §160D-802(a), the following divisions of land shall not be included within the definition of the term “subdivision” and shall not be subject to this Ordinance: (1) the division of land for the purpose of creating a lot for use as a site for a utility pump station; (2) the recordation of a plot of lots created by deeds recorded in the Orange County Registry prior to March 13, 1978; (3) the creation of a lot to be conveyed to the Town or to a non-profit entity for the purpose of creating public parks or public open space, provided that the plat and the deed creating such parcel shall specifically state that the parcel created may not be used for any other purpose, (4) the division of land owned by a governmental entity to facilitate the conveyance of a portion of said land to another governmental entity for governmental or public use, and (5) the recordation of a plat consistent with Section 7.3.3, *Multiple Detached Dwellings on a Single Parcel*.

3.5.3.4 If the proposal does not meet the exemptions, the Planning Director shall return the unsigned map to the property owner or authorized agent with a written description of why the map does not qualify to be exempt.

3.5.4 MINOR SUBDIVISION

Property owners or agents must present a paper map to the Planning Department to review any division of land into 4 or fewer lots from a single tract of land in any five (5) year period. If a new public road is proposed as part of the project, the subdivision shall be reviewed as a Major Subdivision. The Planning Director has the authority to refer a minor subdivision involving a new or existing private road to the Technical Review Committee. If no public or private road right of way or construction is part of the proposal, the Planning Director may approve the minor subdivision by signing the approval certificate on the recordable map.

The application will be processed according to the procedure details in Section 5.2.49, *Subdivisions, Minor*, or 5.2.47, *Subdivision, Major or Special*, as applicable.

3.5.5 MAJOR SUBDIVISIONS

Divisions of land resulting in the creation of between five (5) and nineteen (19) new lots from a single tract of land in any five (5) year period shall require major subdivision approval from the Planning Director.

3.5.5.1 Sketch Plan

Before submitting an application, the applicant shall submit a sketch design plan, the elements of which are discussed in the *Administrative Manual*. In reviewing the proposal, the Planning Department may consider existing development in the area, compatibility with the comprehensive plan for the Town, and the suitability of the land to avoid the unnecessary expense of redesigning unacceptable subdivision proposals. The Planning Department shall make available to the applicant maps, studies, and reports which indicate land suitability including maps of flood prone areas, soil, conditions, location of historic sites and unique natural areas.

3.5.6 SPECIAL SUBDIVISIONS

Divisions of land resulting in the creation of twenty (20) or more new lots from a single tract of land in any five (5) year period shall require a Special Use Permit, with review criteria as set forth in Section 5.2.46, *Subdivisions, Major or Special*.

3.5.6.1 Sketch Plan

Prior to submitting a Special Use Permit application, the applicant shall submit a sketch design plan, the elements of which are discussed in the *Administrative Manual*. In reviewing the proposal, the Planning Department may consider existing development in the area, compatibility with the comprehensive plan for the Town, and the suitability of the land to avoid the unnecessary expense of redesigning unacceptable subdivision proposals. The Planning Department shall make available to the applicant maps, studies, and reports which indicate land suitability including maps of flood prone areas, soil, conditions, location of historic sites and unique natural areas.

3.5.6.2 Special Use Permit Required

The preliminary plan will be processed according to the Special Use Permit procedure and details found in Section 3.8.

3.5.7 CONSERVATION SUBDIVISIONS (SECTION 9.2 FOR DEFINITION)

Divisions of land into twenty (20) or more new lots from a single tract of land in any five (5) year period, with special features as set forth in Section 5.2.48 for conservation subdivisions, shall require a Special Use Permit.

3.5.7.1 Sketch Plan

Prior to submitting a preliminary plat, the applicant shall submit to a sketch design plan, the elements of which are discussed in the *Administrative Manual*. In reviewing the proposal, the Planning Department may consider existing development in the area, compatibility with the comprehensive plan for the Town, and the suitability of the land to avoid the unnecessary expense of redesigning unacceptable subdivision proposals. The Planning Department shall make available to the applicant maps, studies, and reports which indicate land suitability including maps of flood prone areas, soil, conditions, location of historic sites and unique natural areas.

3.5.7.2 Special Use Permit Required

The preliminary plan will be processed according to the Special Use Permit procedure and details found in Section 3.8.

3.6 FUTURE LAND USE PLAN AND COMPREHENSIVE PLAN AMENDMENTS**3.6.1 INTENT**

It is the intent of this section to set forth the procedures for amending the *Future Land Use Plan* and the Comprehensive Plan. Amendments shall be made by formal action of the Town Board. All proposed amendments shall be referred to the Planning Board for its consideration and recommendation. In no case shall final action be taken to amend this Ordinance until a duly advertised legislative hearing is held.

3.6.2 AUTHORITY TO APPLY**3.6.3.1 Amendments to the *Future Land Use Plan***

Any property owner or other person or entity establishing a sufficient legal interest in a parcel may apply to amend the *Future Land Use Plan* designation on the parcel. Any

advisory board of the town may request the Planning Board or Town Board to sponsor an amendment to the *Future Land Use Plan* related to the duties and authority of the advisory board.

3.6.3.2 Amendments to the Comprehensive Plan

Any resident of the town may apply to amend any component of the Comprehensive Plan. Any advisory board of the town may request the Planning Board or Town Board to sponsor an amendment to any component of the Comprehensive Plan related to the duties and authority of the advisory board.

3.6.3 APPLICATION REQUIREMENTS

Applicants shall refer to the *Administrative Manual* for the requirements for a complete application to amend the *Future Land Use Plan*, or the Comprehensive Plan.

3.6.4 STAFF REVIEW

Upon receipt of an application to amend the *Future Land Use Plan*, or the Comprehensive Plan, the Planning Director shall first determine if the application is complete (including the submission of the required application fee).

Applications which are not complete, or which otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Planning Director, but shall be returned to the applicant with a notation by the Planning Director of the deficiencies in the application.

Once the application is deemed complete, it will be placed on the next available public hearing agenda.

3.6.5 PUBLIC HEARING

The Town Board and the Planning Board generally shall hear applications for amendments to these documents as legislative proceedings at a quarterly, joint public hearing. The Town Board may, in its discretion, schedule public hearings on applications at times other than the quarterly public hearing. The *Administrative Manual* includes the schedule of quarterly public hearing dates and filing deadlines.

3.6.5.1 Notice of Public Hearing

All notices required under this Ordinance shall comply with the North Carolina General Statutes. In addition, all notices shall, unless otherwise specified in this Ordinance, comply with the following.

3.6.5.1.a Published Notice

Notice of each public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the Town, stating the time and place of such hearing and the substance of the proposed amendment, in accordance with the provisions of North Carolina General Statutes, Section 160D-601. This notice shall appear in said newspaper for two (2) successive weeks prior to the public hearing, the first publication not less than ten (10) days nor more than twenty-

five (25) days prior to the hearing.

3.6.5.1.b Post-Hearing Process

The public hearing on an amendment to the *Future Land Use Plan*, or the Comprehensive Plan is formally closed by a motion and vote of the Board members present at the hearing.

3.6.6 PLANNING BOARD RECOMMENDATION

The Planning Board shall within thirty (30) days after the public hearing is closed, prepare and submit for the Town Board a written recommendation concerning the application.

3.6.7 TOWN BOARD ACTION

The Town Board shall not take action on the proposed amendment until thirty (30) days after the date of the public hearing or until the Planning Board makes its written recommendation, whichever comes first.

3.6.8 FORMALIZING THE OUTCOME

The Town Board's action on a proposed amendment shall be in the form of an ordinance amending the applicable document. An amendment is effective immediately, unless some other effective date is specified in the amending ordinance.

The applicant shall receive written notice of the Town Board's decision on the application, including a copy of the Ordinance adopted by the Town Board if the application is approved, within 30 days of the effective date of the ordinance.

3.6.9 APPEAL

Text and map amendments are legislative actions of the Town Board. Any person seeking to challenge the validity of any amendment to this Ordinance may challenge such amendment by filing an appropriate action in the Orange County Superior Court within the time established by North Carolina General Statutes, Section 160D-1405.

3.6.10 EFFECT OF DENIAL OR WITHDRAWAL

An applicant may withdraw his or her application for an amendment at any time by written notice to the Planning Director.

3.6.11 VESTING

Amendments to the *Future Land Use Plan*, or the Comprehensive Plan do not qualify as site-specific development plans and do not establish statutory vested rights.

3.6.12 DEVIATIONS, MODIFICATIONS, REVOCATION, EXPIRATION

Text and map amendments enacted by the Town Board are legislative actions and are not subject to deviations, modifications, revocation, or expiration except through specific action to further amend these documents.

3.7 UNIFIED DEVELOPMENT ORDINANCE AND MAP AMENDMENTS

3.7.1 INTENT

It is the intent of this section to set forth the procedures for amending this Ordinance including the Official Zoning Map. Amendments shall be made by formal action of the Town Board. All proposed amendments shall be referred to the Planning Board for its consideration and recommendation. In no case shall final action be taken to amend this Ordinance until a duly advertised legislative hearing is held.

3.7.2 GENERAL STANDARDS/FINDINGS OF FACT

Before amending this Ordinance or the Official Zoning Map, the Town Board must consider, when conducting the process below, whether the request is consistent with the adopted Comprehensive Plan for the Town of Hillsborough.

Amending the Official Zoning Map (Rezoning) is a matter committed to the legislative discretion of the Town Board. In determining whether to adopt a proposed amendment, the Town Board shall consider and weigh the relevance of the following factors:

- 3.7.2.1** The extent to which the proposed amendment is consistent with all applicable Town-adopted plans.
- 3.7.2.2** The extent to which there are changed conditions that require an amendment.
- 3.7.2.3** The extent to which the proposed amendment addresses a demonstrated community need.
- 3.7.2.4** The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.
- 3.7.2.5** The extent to which the proposed amendment would result in a logical and orderly development pattern or deviate from logical and orderly development patterns.
- 3.7.2.6** The extent to which the proposed amendment would encourage premature development.
- 3.7.2.7** The extent to which the proposed amendment would result in strip or ribbon commercial development.
- 3.7.2.8** The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts.
- 3.7.2.9** The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and
- 3.7.2.10** The extent to which the proposed amendment would result in significantly adverse environmental impacts, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

3.7.3 AUTHORITY TO APPLY

Subject to the limitations of the foregoing statement of intent, an amendment to this Ordinance, including the Official Zoning Map, may be initiated by:

- 3.7.3.1** The Town Board on its own motion.
- 3.7.3.2** The Planning Board.

3.7.3.3 The Board of Adjustment.

3.7.3.4 Any person or agency. Rezoning requests to establish the PD (Planned Development) zoning designation must be made by all the owners of the property(ies) to be subject to the PD district.

3.7.4 PRE-APPLICATION

Applicants seeking to amend the Official Zoning Map shall, before submitting an application for a Zoning Map Amendment, participate in a pre-application meeting with the Planning Director to ensure the application does not require additional, parallel reviews for Land Use Plan amendments.

3.7.5 APPLICATION REQUIREMENTS

Applicants shall refer to the Administrative Manual for the requirements for a complete application to amend this Ordinance or the Official Zoning Map.

3.7.6 NEIGHBORHOOD MEETING REQUIRED - PLANNED DEVELOPMENT MAP AMENDMENTS

Applicants requesting rezoning to the PD district designation must conduct at least one neighborhood meeting prior to an initial application submittal. The meeting may occur prior to the required pre-application meeting. The meeting shall comply with the following requirements:

1. The meeting must be held by the applicant or their agent and take place within six months of application submittal. A second meeting must be held if more than six months have passed at the time of application submittal.
2. The meeting shall be held at a place generally accessible to neighbors residing close to the subject property, virtually with both internet and dial-in options, or a combination of both methods. Applicant shall confirm that member of the Town of Hillsborough Planning staff can be present to observe the meeting.
3. The applicant shall mail written notice of the meeting to the Town of Hillsborough Planning Department and all landowners located within 500 feet of the subject property's boundaries. The property owner listing shall be obtained from the Orange County Land Records/GIS Division. The notice shall be mailed no later than 14 calendar days prior to the meeting date. The applicant will retain a copy of the list of those that received notice and provide it as part of the after meeting report.
4. At the meeting, the applicant shall explain the development proposal and application, answer any questions, respond to concerns neighboring property owners have about the application and propose resolutions to these concerns. Applicant shall take detailed notes of this meeting to include in the below Neighborhood Meeting report.
5. After the meeting is held, the applicant shall prepare a Neighborhood Meeting report including all the following:
 - (a) a listing of all persons contacted about the meeting,
 - (b) the manner and date of contact,
 - (c) the date, time and location of the meeting,
 - (d) a roster form identifying the persons in attendance at the meeting,
 - (e) a summary of issues discussed, and

(f) a description of any changes made by the petitioner as a result of the meeting.

3.7.7 STAFF REVIEW

Upon receipt of an application to amend this Ordinance or the Official Zoning Map, the Planning Director shall first determine if the application is complete (including the submission of the required application fee).

Applications which are not complete, or which otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Planning Director, but shall be returned to the applicant with a notation by the Planning Director of the deficiencies in the application.

Once the application is deemed complete, it will be placed on the next available public legislative hearing agenda.

3.7.8 PUBLIC HEARING

The Town Board and the Planning Board generally shall hear applications for amendments to these documents at a quarterly, joint legislative hearing. The Town Board may, in its discretion, schedule legislative hearings on applications at times other than the quarterly legislative hearing. The Administrative Manual includes the schedule of quarterly legislative hearing dates and filing deadlines.

3.7.8.1 Notice of Legislative Hearing

All notices required under this Ordinance shall comply with the North Carolina General Statutes. In addition, all notices shall, unless otherwise specified in this Ordinance, comply with the following.

3.7.8.2 Published Notice

Notice of each legislative hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the Town, stating the time and place of such hearing and the substance of the proposed amendment, in accordance with the provisions of North Carolina General Statutes, Section 160D-601. This notice shall appear in said newspaper for two (2) successive weeks prior to the public hearing, the first publication not less than ten (10) days nor more than twenty-five (25) days prior to the hearing.

3.7.8.3 Mailed Notice

In the case of a proposed Zoning Map amendment, in addition to the public notice requirement established in Section 3.7.7.2 above, the Planning Director shall give notice by first class mail to owner of the subject property and to the owners of all parcels any part of which lies within five hundred (500) feet of the property boundaries of the subject property. Mailed notice shall be deemed sufficient if mailed to the property owner as shown on the current Orange County tax roll on the date of the notice. The Planning Director shall certify to the Town Board that such notice was given.

3.7.8.4 Posted Notice

In the case of a proposed Zoning Map amendment, the Planning Director shall post notice on the subject property(ies) notice of the time, date, and location of the legislative hearing, and a summary of the requested amendment in a form established by the Planning Director, at least ten (10) days before the date fixed for legislative hearing. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. The

posted notice shall remain in place until after a final decision is rendered on the application. The posted notice shall be placed in a manner to provide visibility from the public right-of-way. The applicant shall ensure that the posted notice is maintained on the land until completion of the legislative hearing on the application.

3.7.9 POST-HEARING PROCESS

The legislative hearing on an amendment to this Ordinance, or to the Zoning Map, is formally closed by a motion and vote of the Board members present at the hearing.

3.7.10 PLANNING BOARD RECOMMENDATION

The Planning Board shall within thirty (30) days after the legislative hearing is closed, prepare and submit for the Town Board a written recommendation concerning the application.

3.7.11 CONDITIONS OF APPROVAL - PLANNED DEVELOPMENT MAP AMENDMENTS

The petitioner and/or the Town or its agencies, may propose specific conditions applicable to PD districts. Only those conditions mutually approved by the Town and the petitioner may be incorporated into the PD approval ordinance. Conditions and site-specific standards imposed on a PD district are limited to those addressing conformance of the project's development and use to Town ordinances, Comprehensive Plan or other applicable officially adopted plans, and those addressing reasonably expected impacts generated by the development project. Conditions shall be recorded and outlined in a formal development agreement presented at the time of rezoning submittal.

3.7.12 TOWN BOARD ACTION

The Town Board shall not take action on the proposed amendment until thirty (30) days after the date of the legislative hearing or until the Planning Board makes its recommendation, whichever comes first.

3.7.13 FORMALIZING THE OUTCOME

The Town Board's action on a proposed amendment shall be in the form of an ordinance amending the applicable document. An amendment is effective immediately, unless some other effective date is specified in the amending ordinance.

The applicant shall receive written notice of the Town Board's decision on the application, including a copy of the Ordinance adopted by the Town Board if the application is approved, within 30 days of the effective date of the ordinance.

3.7.14 APPEAL

Text and map amendments are legislative actions of the Town Board. Any person seeking to challenge the validity of any amendment to this Ordinance may challenge such amendment by filing an appropriate action in the Orange County Superior Court within the time established by North Carolina General Statutes, Section 160D-1405.

3.7.15 EFFECT OF DENIAL OR WITHDRAWAL

An applicant may withdraw his or her application for an amendment at any time by written notice to the Planning Director.

When the Town Board shall have acted upon an application or the application shall have been withdrawn after the first notice of the public legislative hearing thereon, the Town shall not accept

another application for the same or similar text or Official Zoning Map amendment, affecting the same property or a portion of it, until the expiration of a one (1) year period, extending from the date of action or withdrawal. The Town Board may on its own motion, however, initiate an amendment of this nature prior to the expiration of the one (1) year period.

3.7.16 VESTING

3.7.16.1 Amendments to this Ordinance and the Zoning Map do not qualify as site-specific development plans and do not establish statutory vested rights.

3.7.16.2 The Town Board may approve a rezoning to a PD district conditioned on a development schedule for all or each phase of the PD. If at any time the PD or any phase of the PD has not been developed according to the schedule, the Town Board shall give notice by certified mail to the property owner(s) and applicant for the rezoning request and schedule a public hearing where any of the following actions may be taken:

1. administrative action to extend, remove or determine compliance with the development schedule; or
2. legislative action to cause the property to revert to its former zoning classification or an appropriate general use district; or
3. legislative action to amend the master development plan.

3.7.17 DEVIATIONS, MODIFICATIONS, REVOCATION, EXPIRATION

Text and map amendments (except Planned Development district map amendments) enacted by the Town Board are legislative actions and are not subject to deviations, modifications, revocation, or expiration except through specific Town Board action to further amend these documents.

3.8 SPECIAL USE PERMIT

3.8.1 INTENT

Special uses, because of their inherent nature, extent of development, or external effects, require special consideration of their location, design and methods of operation, in order to protect the public health, safety and welfare. This section sets forth the information to be submitted with applications for Special Use Permits (SUP) and states the standards by which each application shall be judged.

The criteria and procedures established in this section are intended to ensure that the design and construction of site elements include appropriate consideration of the relationship and balance among site elements, the relationship of the proposed development to natural features and neighboring developments, access and circulation systems, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring development and streets, and mitigation of traffic impacts.

3.8.2 APPLICABILITY

An application for a Special Use Permit may be submitted when the use is designated special use for the zoning district in which the property is located, in the Permitted Use Table.

3.8.3 GENERAL STANDARDS/FINDINGS OF FACT

The Board of Adjustment shall not approve a Special Use Permit application unless it makes each of the following findings concerning the proposed special use:

- 3.8.3.1** That the use or development is located, designed, and proposed to be operated so as to maintain the public health, safety, and general welfare.
- 3.8.3.2** That the use or development complies with all required regulations and standards of this Ordinance, including all applicable provisions of Articles 4, 5, and 6 and all applicable regulations.
- 3.8.3.3** That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity, and
- 3.8.3.4** That the use or development conforms with the general plans for the physical development of the Town and is consistent with the Town's Comprehensive Plan.

3.8.4 APPLYING THE ORDINANCE TO DETERMINE COMPLIANCE WITH STANDARDS TO MAKE FINDINGS OF FACT

- 3.8.4.1** All requirements in this ordinance apply to applications for Special Use Permits.
- 3.8.4.2** Certain uses require specialized information, which is contained in Section 5, *Use Standards*.
- 3.8.4.3** To the extent that an applicant seeks a Special Use Permit for a parcel which does not have a specified development standard based on the zoning designation assigned to that parcel, the standard for the Office Institutional zoning district shall apply.

3.8.5 BURDEN OF PRESENTING EVIDENCE

The burden of presenting a complete application shall at all times be upon the applicant. However, unless the Planning Director informs the applicant at or before the hearing on the application that, and in what way, the application is incomplete, and offers the applicant an opportunity to complete the application, the application shall be presumed to be complete.

Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to allow the permit-issuing board to conclude that the application should be denied for any reasons stated in Section 3.8.3, *General Standards/Findings of Fact*, shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any other reasons set for in Section 3.8.3, *General Standards/Findings of Fact*, rests on the party or parties urging the requested permit should be denied.

3.8.6 PRE-APPLICATION

Applicants are encouraged to meet with Planning Director before filing a Special Use Permit application to review specific permit and application requirements.

3.8.7 APPLICATION REQUIREMENTS

Special Use Permit applications shall be filed with the Planning Director.

The Planning Director shall prescribe the form(s) on which applications are made. Application requirements and necessary submittals are set forth in the *Administrative Manual*.

3.8.8 STAFF REVIEW

Upon receipt of a Special Use Permit application, the Planning Director shall first determine whether the application is complete, including the payment of all required application fees. If the Planning Director determines that the application is not complete, they shall notify the applicant in writing of the reasons for such determination. Once a complete application has been received, the Planning Director shall analyze the application in conjunction with qualified representatives of the Town and such other agencies or officials as may be appropriate, to determine conformity with the Land Use Plan and the Comprehensive Plan, the provisions of this Ordinance, , and other regulations applicable in the case.

In preparing their analysis, the Planning Director shall refer a Special Use Permit application to the next available Technical Review Committee meeting to facilitate the outside agency review and collection of comments.

If a Special Use Permit application is filed for a parcel located within the Historic Overlay District, the application shall be referred to the Historic District Commission for its review prior to the public hearing on the Special Use Permit application. The applicant shall present a conceptual plan of the proposal to the Historic District Commission and shall discuss how the application fits into the historic district in terms of site organization, circulation, structure, form, massing, scale, height, orientation, roof form, and proportion. The Commission may offer comments and recommendations on the application to the applicant and shall formulate a formal statement to be provided in writing to the Board of Adjustment during the public hearing on the application. The Board of Adjustment shall consider any comments or recommendations provided by the Commission when determining the findings of fact for the application. The Commission's comments and/or recommendations, if any, shall not be binding on the Commission when it considers any application for a Certificate of Appropriateness with respect to the property, which application shall be processed and reviewed pursuant to Section 3.12.

3.8.9 TECHNICAL REVIEW COMMITTEE

The Technical Review Committee shall review all applications for Special Use Permits, and make a recommendation on each such application, which recommendation may include recommended conditions of approval. Once the Technical Review Committee has made its written recommendation, the Special Use Permit application shall be scheduled for the next available public hearing agenda.

3.8.10 EVIDENTIARY HEARING

After notice in accordance with Section 3.8.11, *Notice of Evidentiary Hearing*, is given the Board of Adjustment shall hold an evidentiary hearing on the application at the next available regular meeting.

The evidentiary hearing on a Special Use Permit application shall be a quasi-judicial hearing open to the public. At the hearing, the applicant and property owners receiving written hearing notices shall be given the opportunity to present evidence and arguments and to ask questions. Reasonable and equitable limitations may be placed on the presentation of evidence and arguments, and the cross-examination of witnesses, so that the application may be heard without undue delay. All persons who intend to present evidence at the evidentiary hearing shall be sworn.

When the applicant presents substantial and competent evidence that the proposed development will satisfy the general standards established by Section 3.8.3, *General Standards/Findings of Fact*, above and will conform to all specific provisions applicable to that particular Special use as established by this Ordinance, persons opposed to the application shall have the burden of presenting substantial and competent evidence contrary to the applicant's evidence or substantial and competent evidence that the proposed development will violate one or more of the general standards set forth in Section 3.8.3, *General Standards/Findings of Fact*, or any of the specific standards for the particular Special use established by this Ordinance. If no such evidence is submitted, the applicant shall be granted the permit. If substantial and competent evidence in opposition to the application is submitted, the applicant shall have the burden of overcoming that evidence with further evidence of his/her own.

A record of the proceedings of the hearing shall be made and shall include all application materials and documentary evidence presented at the hearing.

3.8.11 NOTICE OF EVIDENTIARY HEARING

Notice of the evidentiary hearing on a Special Use Permit application shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in Orange County. The notice shall be published the first time not less than ten (10) days no more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Written notice shall be sent to the applicant, owner of the property subject to the request, and the owners of all property lying within 500 feet of the property which is the subject of the application as indicated on the then-current Orange County tax rolls. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days before the hearing date. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

A notice of the request shall be placed on the site that is subject to the hearing or on an adjacent street or highway right-of-way at least ten (10) days, but not more than twenty-five (25) days before the hearing date.

3.8.12 POST-HEARING PROCESS

The evidentiary hearing on a Special Use Permit application is formally closed by a motion and vote of the Board members present at the hearing.

3.8.13 BOARD OF ADJUSTMENT ACTION

The Board of Adjustment shall review the record of the evidentiary hearing, the Technical Review Committee's recommendation, , and the Planning Director's report and shall take action on the application based on findings of fact as to the determinations required in Section 3.8.3, *General Standards/Findings of Fact*, and the applicable standards for the specific special use as established by this Ordinance. All findings shall be based on substantial, competent evidence presented at the evidentiary hearings.

The Board of Adjustment may impose such reasonable conditions upon approval of a Special Use Permit as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and equitable treatment provided.

All conditions of approval shall run with the land and use and shall be binding on the original applicant(s) as well as all successors, assigns, and heirs. If the Board of Adjustment denies the permit, the reasons for its action shall be recorded in the minutes of the meeting.

3.8.14 FORMALIZING THE OUTCOME

The vote by the Board of Adjustment is the date of issuance or denial of the Special Use Permit. The Planning Director shall cause written notice of the disposition of the application to be delivered by certified mail to the applicant and any party who has filed a written request for a copy with the Planning Director at the time of the hearing, and shall cause a copy of the decision to be filed in the Planning Department.

In the case of approval or approval with conditions, the staff shall issue the Special Use Permit in accordance with the action of the Board of Adjustment and the applicant shall record it in the office of the Orange County Register of Deeds within thirty (30) days of receipt. No Special Use Permit will be effective, and no further permits or approvals for the development may be issued, until the Special Use Permit has been filed with the Register of Deeds. A copy of the Special Use Permit, with proof of filing with the Orange County Register of Deeds, shall be delivered to the Planning Director prior to issuing Zoning Compliance Permits to begin the work authorized by the Special Use Permit.

Any construction authorized by a Special Use Permit must receive construction drawing approval and a Zoning Compliance Permit as detailed in Section 3.14, *Zoning Compliance Permits*.

3.8.15 APPEAL

An aggrieved party may appeal a decision by the Board of Adjustment on an application for a Special Use Permit to the Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by North Carolina General Statutes, Section 160D-1402.

3.8.16 EFFECT OF DENIAL OR WITHDRAWAL

When the Board of Adjustment shall have denied an application or the application shall have been withdrawn, by written notice, after publication of the first evidentiary hearing notice required in Section 3.8.11, *Notice of Evidentiary Hearing*, the Planning Director shall not accept another

application for the same or similar Special Use, affecting the same property or a portion thereof, until the expiration of one year from the date of denial or withdrawal.

3.8.17 VESTING

A vested right pursuant to Section 1.8, *Vested Rights* is established by the issuance of a Special Use Permit pursuant to this section.

3.8.18 MINOR CHANGES AND MODIFICATIONS

After a Special Use Permit has been approved, the Planning Director is authorized to approve minor changes in the approved plans of Special Uses, as long as they are in harmony with action of the Board of Adjustment but the Planning Director shall not have the authority to approve changes that constitute a modification of the approved plans. A modification shall require approval of the Board of Adjustment. If the Planning Director is uncertain whether a requested deviation is a “minor change” or a “modification,” it shall be treated as a modification and referred to the Board of Adjustment for review and approval.

3.8.19 CRITERIA USED FOR DETERMINATION

The Planning Director shall use the following criteria in determining whether a proposed action is a minor change or a modification. For the purposes of this section “significant” shall mean a change that is important to character or appearance of the project and generally refers to items not easily quantifiable; “substantial” refers to measurable quantities, size, or impact.

- 3.8.19.1** Changes that are consistent with the original approval shall constitute a minor change. Consistency means the changes would not significantly alter the development’s general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the original approval.
- 3.8.19.2** Changes to a specific condition imposed during the approval of a Special Use Permit or expansion of an approved waiver shall constitute a modification. A change that eliminates or reduces the need for a granted waiver is a minor change.
- 3.8.19.3** Each of the following shall constitute a modification:
 - 3.8.19.3.a** A significant or substantial change in use.
 - 3.8.19.3.b** An expansion of building square footage of 20% or greater.
 - 3.8.19.3.c** A change in any quantifiable standard in this ordinance of ten percent or more. This includes but is not limited to increasing the number of dwellings, increasing or decreasing the amount of parking, increasing the removal of canopy trees, increasing the building height.
 - 3.8.19.3.d** A significant or substantial rearrangement of uses on a site which may impact adjacent or on site uses, open space and recreation provisions, vehicular and pedestrian access to and across that site, vehicular and pedestrian circulation on the site, or public or private infrastructure and utilities installations shall constitute a modification.
 - 3.8.19.3.e** Any combination of minor changes that in the determination of the Planning Director, is substantial or significant and impacts the project’s consistency with the original approval.

3.8.20 APPLYING CRITERIA

Minor changes and modifications are reviewed only after a permit has been approved. The criteria shall be applied as follows:

- 3.8.20.1** When the requested change creates a situation of non-compliance with a quantified standard in the ordinance but does not qualify as a modification under 3.8.19, staff may approve the request as a minor change without triggering a waiver.
- 3.8.20.2** When the requested change modifies a feature or required standard with an approved waiver, the relief granted in the waiver is fixed and not subject to flexibility in 3.8.19.
- 3.8.20.3** When the requested change is for relief similar to that in an approved waiver, but in a different location, that approved waiver cannot be applied to a different location. Staff may review the requested change independently and determine if it is a minor change.

3.8.21 REVIEW OF RECORD REQUIRED

The Planning Director shall, before deciding whether a proposed change to a special use is a minor change or modification, review the record of the proceedings of the original Special Use Permit approval. The Planning Director's decision shall be based upon the applicant's request, a review of the record of the original request, and the Planning Director's findings under the criteria of Section 3.8.19, *Criteria Used for Determination*.

3.8.22 ACTION REQUIRED ON PROPOSED MINOR CHANGES

If the Planning Director determines that the proposed action is a minor change, they shall state their findings in writing to the applicant. The applicant shall file with the Planning Director an amended site plan, or written statement, outlining in detail the minor change(s) proposed. The Planning Director shall file the amended site plan or written statement with the originally approved site plan.

3.8.23 ACTION REQUIRED ON PROPOSED MODIFICATIONS

If the Planning Director determines that the proposed action is a modification, they shall require the applicant to submit a request for modification of the approved Special Use Permit. An application for a modification to an approved Special Use Permit will be reviewed in the same manner as a new Special Use Permit. The outcome on the application shall be documented in the same manner as a new Special Use Permit.

Modifications to Special Use Permits for properties located in the historic overlay district which impact the site organization, form, massing, scale, height, orientation, roof form, and proportion of the site shall be referred to the Historic District Commission, as described in Section 3.8.8 before any evidentiary hearing on the modification.

3.8.24 EXPIRATION

An approved Special Use Permit expires 24 months from the date of approval if the Zoning Permit has not been issued for the project unless an extension of the expiration date has been granted by the Board of Adjustment. Extensions may be in the form of a longer expiration time approved with the initial Special Use Permit, or a separate request made in writing before the expiration of the standard 24 months.

3.9 RESERVED FOR FUTURE CODIFICATION

3.10 VARIANCE

3.10.1 INTENT

This section establishes the process to be followed by the Board of Adjustment when it considers requests for relief relating to the requirements of this Ordinance. Nothing in this section shall be construed to authorize the Board of Adjustment to permit a use in a district where that use is neither a permitted, nor a Special Use.

3.10.2 APPLICABILITY

When a property owner claims that he or she will be subject to an unnecessary hardship if they are required to comply with the strict application of this Ordinance, they may seek a variance from such requirement. Only the Board of Adjustment has authority to grant such variances, and then only upon application of established legal standard as set forth in this Ordinance.

3.10.3 GENERAL STANDARDS/FINDINGS OF FACT

3.10.3.1 A Variance from all provisions of this Ordinance, with the exception of Section 4.5.1, *Upper Eno Watershed District*; Section 4.5.2, *Upper Eno Protected Watershed, Critical Area District* and Section 6.20.16, *Riparian Buffers* (which contain their own separate findings required to receive a variance), shall be approved only upon a finding that all of the following standards are met:

3.10.3.1.a Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property; and

3.10.3.1.b The hardship results from conditions that are peculiar to the property such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted to provide reasonable accommodation under federal Fair Housing Act for a person with a disability, and

3.10.3.1.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

3.10.3.1.d The requested Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.

3.10.3.2 WATERSHED PROTECTION DISTRICT VARIANCE FINDINGS

Development activities within the Upper Eno and Upper Eno Protected Watershed, Critical Area Districts may be granted minor and major variances by the Board of Adjustment in accordance with Section 4.5.5.2, *Variances*, of this Ordinance.

3.10.3.3 RIPARIAN BUFFER VARIANCE FINDINGS

Variances from the provisions of Section 6.20.16, *Riparian Buffers*, shall be approved only upon a finding that all of the following standards are met:

3.10.3.3.a There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the riparian buffer protection requirements. Practical difficulties or unnecessary hardships shall be evaluated in accordance with the following:

- (a) If the applicant complies with the provisions of the riparian buffer protection requirements, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the buffer requirements that shall make reasonable use of the property possible.
- (b) The hardship results from application of the riparian buffer protection rules to the property rather than from other factors such as deed restrictions or other hardship.
- (c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
- (d) The applicant did not cause the hardship by knowingly or unknowingly violating the riparian buffer protection requirements.
- (e) The applicant did not purchase the property after the effective date of the riparian buffer protection requirements (July 22, 1997), and then requesting a variance.
- (f) The hardship is unique to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a Special privilege denied to others and would not promote equal justice.

3.10.3.3.b The variance is in harmony with the general purpose and intent of the riparian buffer protection requirements and preserves their spirit, and

3.10.3.3.c In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

3.10.3.4 MINOR AND MAJOR VARIANCES

A minor variance request pertains to activities that are proposed only to impact any portion of Zone 2 of the riparian buffer. Zone 2 begins at the outer edge of Zone 1 and extends landward 20 feet as measured horizontally on a line perpendicular to the surface water.

A major variance request pertains to activities that are proposed to impact any portion of Zone 1 or any portion of both Zones 1 and 2 of the riparian buffer. For intermittent and perennial streams, Zone 1 begins at the most landward limit of the top of bank or the rooted herbaceous vegetation and extends landward a distance of 30 feet on all sides of

the surface water, measured horizontally on a line perpendicular to the surface water. For ponds, lakes and reservoirs located within a natural drainage way, Zone 1 begins at the most landward limit of the normal water level or the rooted herbaceous vegetation and extends landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 is 50 feet on all sides of the surface water.

Additional requirements for processing of major variances are found in Section 3.10.6.5.b.

3.10.4 INSUFFICIENT JUSTIFICATION FOR VARIANCE

The following do not constitute grounds for a Variance:

- 3.10.4.1** The existence of other nonconforming or conforming uses of land or structures in the same or other districts;
- 3.10.4.2** The request for a particular use expressly, or by inference, prohibited in the district; or
- 3.10.4.3** Economic hardship or the fact that property may be utilized more profitably with a Variance; or
- 3.10.4.4** Hardships resulting from personal circumstances and/or conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance.

3.10.5 SUBSEQUENT DEVELOPMENT

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance and/or any other applicable regulations. The granting of a Variance does not constitute and shall not be deemed to constitute a forecast that the development receiving a Variance will receive any other required approval.

3.10.6 PROCEDURE

3.10.6.1 Application requirements

The application requirements, checklists, and timeline are provided in the *Administrative Manual*.

3.10.6.2 Staff Review

Upon receipt of a variance application, the Planning Director shall first determine whether the application is complete, including the payment of all required application fees. If the Planning Director determines that the application is not complete, they shall notify the applicant in writing of the reasons for such determination. Once a complete application has been received, the Planning Director shall analyze the application in conjunction with qualified representatives of the Town and such other agencies or officials as may be appropriate, to determine conformity with the Land Use Plan and the Comprehensive Plan, the provisions of this Ordinance, the provisions of any Master Plan approved for the property, and other regulations applicable in the case. The Planning Director shall schedule the complete application for the next available meeting of the Board of Adjustment.

3.10.6.3 EVIDENTIARY HEARING

Following receipt of the application from the Planning Director, the Board of Adjustment shall conduct an evidentiary hearing on the application.

3.10.6.4 Notice of Public Hearing

Written notice shall be mailed to the aggrieved person (applicant), property owner involved in original case being appealed (if different), to the owners of all parcels of land abutting the parcel of land that is subject to the evidentiary hearing (including those across a public or private street), to any other persons entitled to receive notice as provided by this Ordinance. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days before the hearing date. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

A notice of the request shall be placed on the site that is subject to the hearing or on an adjacent street or highway right-of-way at least ten (10) days, but not more than twenty-five (25) days before the hearing date.

In cases where a variance is requested from the provisions of Section 4.5.1, Upper Eno Watershed District; Section 4.5.2, Upper Eno Protected Watershed, Critical Area District of this Ordinance, all local governments having jurisdiction within the watershed area and the entity using the water supply for consumption shall be notified of the proposed variance. Comments from these entities shall be submitted to the Planning Director before the Board of Adjustment decision and shall be made a part of the record of the Board of Adjustment decision.

3.10.6.5 Public Hearing

3.10.6.5.a Following receipt of the application from the Planning Director, the Board of Adjustment shall conduct an evidentiary hearing on the application. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, any testimony or evidence given at the hearing and included in the record, determine contested facts and substantial evidence in the record and make its decision within a reasonable time. The Board of Adjustment shall take one of the following actions, based on the standards in Section 3.10.3, *General Standards/Findings of Fact*:

- (a) Approve the application as submitted;
- (b) Approve the application subject to conditions; or
- (c) Deny the application.

The affirmative vote of at least four-fifths (4/5) of the members of the Board of Adjustment who are eligible to vote is required to grant a variance.

Appropriate conditions may be imposed on a Variance provided that the conditions are reasonably related to the Variance.

3.10.6.5.b If the Board of Adjustment determines that a major variance request meets the requirements in Section 3.10.3.3, Riparian Buffer Variance Findings, then it shall prepare a preliminary finding and submit it to the State Environmental Management Commission. Preliminary findings on major variance requests shall be reviewed by the Commission within 90 days after receipt by the Director. The purpose of the Commission's review is to determine if it agrees that the requirements for granting of a variance have been met. Requests for appeals of decisions made by the Commission shall be made to the Office of Administrative hearings. The following actions shall be taken depending on the Commission's decision on the major variance request:

- (a) Upon the Commission's approval, the Board of Adjustment shall issue a final decision granting the major variance.
- (b) Upon the Commission's approval with conditions or stipulations, the Board of Adjustment shall issue a final decision, which includes these conditions or stipulations.
- (c) Upon the Commission's denial, the Board of Adjustment shall issue a final decision denying the major variance.

3.10.6.5.c The Board's decision on a Variance 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.

3.10.7 FORMALIZING THE OUTCOME

The Planning Director shall cause notice of the disposition of the application to be delivered by either personal delivery, electronic mail, first class mail or certified mail to the applicant, the property owner and any party who has filed a written request for a copy with the Board at the time of the hearing prior to the date the Board's decision becomes effective, and shall cause a copy of the decision to be filed in the Planning Department.

The applicant will also be required to record a notice of the Variance, which will be provided by the Planning Director, with the Orange County Register of Deeds.

3.10.8 APPEAL

An aggrieved party may appeal a decision by the Board of Adjustment on an application for a Variance to Superior Court. Such appeal shall be in the nature of certiorari, pursuant to North Carolina General Statutes, Section 160D-1402, and must be filed within the time provided by North Carolina General Statutes, Section 160D-1405(d).

3.10.9 MODIFICATIONS

A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

3.10.10 EXPIRATION

Variance approval shall automatically expire if the applicant does not record the Variance with the Orange County Register of Deeds within 30 days after the date the Variance is approved.

Except where required as a prerequisite for a Site Plan associated with new development, an approved and recorded Variance shall run with the land. In cases where a Variance is a prerequisite to site plan approval, failure of an applicant to apply for a Zoning Compliance Permit and commence construction within one year of receiving Variance approval shall automatically render the decision of the Board of Adjustment null and void. Such time period shall not be extended with transfer of ownership.

3.11 APPEAL

3.11.1 INTENT

This section establishes the process to be followed by the Board of Adjustment when it considers appeals from any order, requirement, decision or determination made by the Planning Director concerning the enforcement of this Ordinance.

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

3.11.2 APPLICABILITY

The Board of Adjustment shall hear an appeal taken by any person with standing pursuant to North Carolina General Statutes, Section 106D-405 or the by Town regarding a decision or determination made by the Planning Director concerning the enforcement of this Ordinance in this Ordinance, within the times provided by this Ordinance.

3.11.3 GENERAL STANDARDS

In deciding appeals, the Board of Adjustment may hear those arguments based upon an allegedly improper or erroneous interpretation of the ordinance. The Board of Adjustment will:

- 3.11.3.1** Interpret the meaning of parts of this Ordinance, and
- 3.11.3.2** Apply the Ordinance provisions to particular fact situations in the application.

3.11.4 PROCEDURE

3.11.4.1 Appeal requirements

The appeal requirements, checklists, and time for filing an appeal are provided in the *Administrative Manual*. Unless another time is specifically established by this Ordinance, appeals shall be filed with the Planning Department within thirty (30) days from the receipt of the written notice regarding the matter subject to appeal. Any other person with standing

to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision, (as described below) within which to file an appeal.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six (6) inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant.

Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

3.11.4.2 Staff Review

Upon receipt of an appeal, the Planning Director shall first determine whether the application is complete, including the payment of all required application fees. If the Planning Director determines that the application is not complete, they shall notify the appellant in writing of the reasons for such determination. The Planning Director shall prepare a staff report detailing the situation involved in the appeal. Once a complete application has been received, the Planning Director shall schedule the complete application for the next available meeting of the Board of Adjustment.

A copy of the staff report and record of the case shall be delivered to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

3.11.4.3 Evidentiary Hearing Required

Following receipt of the appeal from the Planning Director, the Board of Adjustment shall conduct an evidentiary hearing on the appeal.

3.11.4.4 Notice of Evidentiary Hearing

Written notice shall be mailed to the aggrieved person (applicant), property owner involved in original case being appealed (if different), to the owners of all parcels of land abutting the parcel of land that is subject to the evidentiary hearing (including those across a public or private street), to any other persons entitled to receive notice as provided by this Ordinance, and the Planning Director. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days before the hearing date. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

A notice of the request shall be placed on the site that is subject to the evidentiary hearing or on an adjacent street or highway right-of-way at least ten (10) days, but not more than twenty-five (25) days before the hearing date.

3.11.4.5 Evidentiary Hearing Steps

3.11.4.5.a The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice

of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment shall take one of the following actions:

- (a) Affirm, wholly or partly, the determination being appealed,
- (b) Reverse, wholly or partly, the determination being appealed, or
- (c) Modify the determination which is being appealed.

The Board shall have all the powers of the official who made the decision. The Board of Adjustment may include direction to the appealed entity for how it should carry out the direction from the Board.

The Board of Adjustment shall review the record of the evidentiary hearing, and the Planning Director's report, and determine contested facts and substantial evidence in the record and make its decision within a reasonable time.

3.11.4.5.b The affirmative vote of a majority of the members of the Board of Adjustment who are eligible to vote is required to grant an appeal (overturn a determination).

3.11.4.5.c The Board's decision on an Appeal 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.

3.11.5 FORMALIZING THE OUTCOME

The Board of Adjustment's decision on the appeal shall be reduced to writing and transmitted to the appellant, the property owner and any party who has filed a written request for a copy by either personal delivery, electronic mail, first class mail or certified mail prior to the date the Board's decision becomes effective.

3.11.6 APPEAL

An aggrieved person may appeal a decision by the Board of Adjustment on an application for appeal to Superior Court. Such appeal shall be in the nature of certiorari, pursuant to North Carolina General Statutes, Section 160D-1402, and must be filed within the time provided by North Carolina General Statutes, Section 160D-405(d).

3.11.7 EXPIRATION

The decision on an appeal before the Board of Adjustment, if attached to a development approval, shall run with the approval period of that permit or approval.

3.12 CERTIFICATE OF APPROPRIATENESS

3.12.1 INTENT

As authorized by North Carolina General Statutes, Section 160D-303 *et seq*, the Town has established an historic overlay district, the purpose and intent of which is to protect the historic and culturally important and significant structures located in the historic district. The Town may, in the future, designate historic landmarks or establish additional historic districts. Consistent with North Carolina General Statutes, Section 160D-947, the erection, alteration and improvement of the exterior features of buildings and structures designated as landmarks or located in an historic district may not be undertaken until after an application for a Certificate of Appropriateness for the work has been submitted to and approved by the Historic District Commission.

3.12.2 APPLICABILITY

It shall be unlawful to begin construction, moving, demolition, alteration, or restoration of any structure or site which has been designated as a landmark or is located within an Historic District until a Certificate of Appropriateness has been issued.

3.12.3 STANDARDS OF EVALUATION

The Commission, in deliberating upon an application for a property located within an Historic District or a local landmark, shall consider, among other things, the general scale, design, arrangement, texture, material, and color of the building, structure, or site in question and the relation of such factors to similar features of buildings in the immediate vicinity or buildings of a similar architectural style or age in the Historic District. The Commission shall not consider the interior arrangement, nor shall it make any requirements except for the purpose of preventing developments which are incongruous to the historic character of the landmark or Historic District.

To provide reasonable standards to assist the Commission in its review of design and to guide and limit the discretion of the Commission, the report entitled "*Hillsborough Historic District Guidelines*," as adopted by the Town Board, is hereby adopted and incorporated by reference as part of this Ordinance to guide the review of applications for Certificates of Appropriateness for properties located within the historic district.

Designated landmarks located outside an historic district shall be held to the Secretary of the Interior's Standards for Rehabilitation.

3.12.4 CERTAIN CHANGES NOT PROHIBITED

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any architectural feature on any property designated as a landmark or located in an Historic District which does not involve a change in design, material, color, or other appearance nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the County Building Inspector shall certify to the Commission is required for the public safety because of an unsafe or dangerous condition.

A list of examples of projects for which no Certificate of Appropriateness is required is listed in Historic District Design Guidelines Exempt Works List.

3.12.5 PROCEDURE

3.12.5.1 Authority to apply

The owner of property designated as a landmark or located in a Historic District, or their authorized representative may apply to the Planning Director for a Certificate of Appropriateness for their property.

3.12.5.2 Pre-application

Applicants for Certificates of Appropriateness are encouraged to schedule and participate in a pre-application conference with the Planning Director to review the proposal for the property and the Hillsborough Historic District Guidelines.

3.12.5.3 Application requirements

Applications for certificates of appropriateness shall be filed with the Planning Director. The forms for such applications and other submittal requirements shall be as set forth in the *Administrative Manual*.

No application shall be accepted by the Planning Director unless it complies with all submittal requirements of this Ordinance, including payment of the applicable fee. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

In the case of an application for a Certificate of Appropriateness for a property encumbered with a Preservation Easement or Agreement regarding the exterior of the structure, the written concurrence of the Preservation Easement holder shall be submitted with the application. The decision of the Commission shall be binding on the property owner and Preservation Easement/Agreement holder equally.

3.12.6 DELAY IN DEMOLITION

An application for Certificate of Appropriateness authorizing the demolition, destruction, or relocation of a building, structure, or site designated as a landmark or located within an Historic District may not be denied except as provided in Section 3.12.6.4. 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 maybe reduced by the Commission based upon a finding that the property owner would suffer extreme hardship or be permanently deprived of beneficial use of or a reasonable return from such property by virtue of the delay.

3.12.6.1 During such period the Commission may negotiate with the owner and with other parties in an effort to find a means of preserving the building or site. If the Commission finds that a building or site has no special significance or value toward maintaining the character of the landmark or the historic landmark property or in the proposed District, it may waive all or part of such period and authorize earlier demolition or removal.

3.12.6.2 If the Commission or Planning Board has voted to recommend the designation of an area as a landmark or as an historic district and final designation has not been made by the Town Board, the demolition or destruction of any building, site, or structure located on the proposed district may be delayed up to 180 days or until the Town Board takes final action on the designation, whichever occurs first.

3.12.6.3 The Town Board may enact an Ordinance to prevent the demolition by neglect of any building or structure designated as a landmark or located within the Historic District. Such Ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

3.12.6.4 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 Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

3.12.7 STAFF REVIEW

3.12.7.1 Action Required on Proposed Minor Works

The applicant shall file with the Planning Director a written statement outlining in detail the minor works(s) proposed. If the Planning Director determines that the work proposed in an application for a Certificate of Appropriateness is a minor work, such determination shall be made in written findings. The Planning Director shall file this statement in the Planning Department.

A list of examples of types of projects that are considered minor works is listed in the Historic District Design Guidelines Minor Works List.

3.12.8 Evidentiary Hearing

The Commission is required to conduct an evidentiary hearing on applications for certificates of appropriateness.

3.12.9 HISTORIC DISTRICT COMMISSION ACTION

The Commission may approve, approve with conditions, or deny an application for a Certificate of Appropriateness. The Commission shall review the record of the meeting or hearing and the application and make its decision on the application based on the standards of evaluation listed in Section 3.12.3, *Standards of Evaluation*.

3.12.10 IMPOSED CONDITIONS

The Commission may impose such reasonable conditions upon approval of a Certificate of Appropriateness as will afford protection of the public health, safety, and general welfare; ensure that substantial justice is done; and equitable treatment provided. Such conditions shall run with the land and use and shall be binding on the original applicant(s) as well as all successors, assigns, and heirs. If the Commission denies the Certificate, the reasons for its action shall be recorded in the minutes of the meeting and a copy sent to the applicant by certified mail, return receipt requested.

3.12.11 NOTICE OF DECISION AND ISSUANCE OF CERTIFICATE OF APPROPRIATENESS

Upon approval, approval subject to conditions, or denial of any application, the Commission shall forthwith transmit a report to the Planning Director stating its decision and cause a copy of the decision to be transmitted to the applicant.

The Planning Director shall periodically inspect the construction or alteration, and immediately report to the Commission any work not in accordance with the Certificate.

All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date that a complete application for a Certificate of Appropriateness is filed, unless an extension of time is agreed to by the applicant.

3.12.12 APPEAL

A decision of the Commission on an application for a Certificate of Appropriateness may be appealed to the Orange County Superior Court by an aggrieved party. Such appeal shall be made within thirty (30) days of filing of the decision in the office of the Planning Director or the delivery of the notice required in Section 3.12.11, whichever is later. Such appeals to the Orange County Superior Court are in the nature of certiorari and the court shall determine such appeals based on the record generated before the Commission.

3.12.13 EXPIRATION

A Certificate of Appropriateness approved pursuant to this section shall expire one year after the date of approval if the work authorized by the approval has not begun, unless the time is extended by the Commission. The process for extending approvals is addressed in the Rules of Procedure for the Historic District Commission.

3.12.14 EMERGENCY ADMINISTRATIVE CERTIFICATES OF APPROPRIATENESS

When a State of Emergency applicable to the Town of Hillsborough is declared pursuant to G.S. Chapter 166A Article 1A Part 4, the Planning Director (or their designee) is authorized to issue Emergency Administrative Certificates of Appropriateness. Such authority shall begin upon said declaration and end upon the rescission of the State of Emergency by the declarant, subject to the provisions and limitations contained herein. The intent of this emergency authority is to ensure that, to the extent practical, works necessitated by the effects of a disaster are performed in a manner that is consistent with the spirit of this Ordinance and the Historic District Design Standards.

3.12.14.1 The Planning Director's authority to issue Emergency Certificates of Appropriateness shall be subject to the following:

3.12.14.1.a The conditions that have caused the declaration of the State of Emergency are preventing the Historic District Commission from meeting, either in-person or remotely pursuant to G.S. 166A-19.24, to establish a quorum and conduct business, and such conditions are anticipated to exist for at least 48 hours following the declaration of the State of Emergency.

3.12.14.1.b During the period of the declared State of Emergency, all work except for those specified below, shall be deemed Minor Works if it is needed to be done due to the state of emergency, and shall be eligible for the issuance of an Administrative Emergency Certificate of Appropriateness.

(A) The demolition of a contributing structure, or any portion of a contributing structure, unless the Building Inspector, Fire Marshal, or other qualified person

determines that the demolition is necessary to ensure public safety.

- (B) The relocation of a contributing structure unless such relocation is undertaken to preserve the structure's integrity by removing from a hazardous situation. Any authorized relocation shall be subject to rescission, and the structure shall be returned to its previous location upon a finding by the Historic District Commission that the hazardous condition no longer exists, and the relocation is feasible.
- (C) The permanent expansion, enlargement, or other modification of a contributing structure that increases its height or floor area, or which materially alters its layout or massing for a purpose other than ensuring the safety, stability, and/or integrity of the structure.
- (D) The permanent removal or alteration of any distinctive architectural feature or ornamentation from a contributing structure, unless deemed to be a hazard to the public or to the integrity of the structure.
- (E) The removal of any tree that is otherwise subject to regulation by this Ordinance unless the removal of said tree is necessary to ensure public safety.
- (F) The grading, filling, or excavation of a lot, except where such work is necessary to preserve life or property due to damage incurred during the event that caused the declaration of the State of Emergency.

3.12.14.1.c The Planning Director shall approve or deny all Emergency Certificates of Appropriateness in writing and shall have the authority to hold any application for future consideration by the Historic District Commission if the work in question cannot be adequately demonstrated to be emergency in nature, provided that such applications may not be held for more than 180 days, as specified in G.S. 160D-947(d).

3.12.14.2 During the period when Emergency Administrative Certificates of Appropriateness are authorized, applicants shall continue to comply, to the maximum extent practical, with the standards for the submission of applications for Certificates of Appropriateness. When circumstances do not allow for the submission of all required materials, the Planning Director is authorized to deem any application complete, provided that, at a minimum, an attempt is made to visually document the current condition of the structure, the proposed work is described in sufficient detail to determine its nature and extent, and the finished work is inspected following its completion for compliance with the authorization granted by the Emergency Certificate of Appropriateness.

3.12.14.3 The Planning Director's authority granted under this Section shall be immediately extinguished upon notice from the Chair of the Historic Commission that a Special Meeting has been called and the attendance of a quorum of the members of the Commission are expected to gather, either in-person or remotely pursuant to G.S. 166A-19.24.

3.12.14.4 At the first regular meeting of the Historic District Commission following the end of the State of Emergency, the Planning Director shall provide the members of the Commission with a summary report and copy of all applications and Certificates of Appropriateness issued under the temporary emergency authority.

3.13 SITE PLAN REVIEW

3.13.1 INTENT

It is the intent of this section to address the specific conditions and standards of evaluation for the review of site plans.

3.13.2 APPLICABILITY

Site Plan review is the general term used to describe review of projects other than (a) the construction of or addition to single-family dwellings on lots zoned for single-family uses and (b) uses requiring a Special Use Permit, as Site Plan review is built into the Special Use Permit review process.

The Site Plan Review process is applicable only to proposed development involving:

3.13.2.1 The disturbance of 10,000 square feet or more of land and/or:

3.13.2.1.a the construction of new structures consisting of more than 5,000 square feet of gross floor area, or

3.13.2.1.b additions to existing structures consisting of more than 2,500 square feet of gross floor area

in any general purpose residential or non-residential zoning district.

3.13.2.2 The construction of attached dwelling units in any general-purpose zoning district that does not otherwise exceed a threshold established by subparagraphs a or b above.

3.13.2.3 All development located within the PD (Planned Development) zoning district.

3.13.3 PROCEDURE

3.13.3.1 Authority to Apply

The owner of any property, or their authorized representative, may apply to the Planning Director for site plan approval.

3.13.3.2 Pre-application Conference

Before submitting an application for site plan approval, the applicant should first meet with the Planning Director to review the proposed plan and the requirements of this Ordinance.

3.13.4 APPLICATION REQUIREMENTS

The Planning Director shall provide forms for applications for site plan approval, which shall be submitted by the applicant. Applicants for site plan approval shall submit all information required to be submitted as set forth in the *Administrative Manual*, and any additional information needed to demonstrate and support compliance with the standards of evaluation. No application shall be accepted as complete unless accompanied by all required fees as set forth in the Schedule of Fees.

3.13.5 REVIEW PROCESS

3.13.5.1 GENERAL

The Planning Director shall review and, if the site plan submitted otherwise meets all of

the standards of this Ordinance, approve site plans for uses permitted as of right in any general-purpose zoning district. Approval or denial of the Site Plan shall be made within 45 working days of a site plan submittal being deemed complete.

3.13.5.2 COMPLETENESS REVIEW

Upon receipt of a Site Plan Review application, the Planning Director shall first determine whether the application is complete, including the payment of all required application fees. The Planning Director shall have five working days in which to determine application completeness. If the Planning Director determine the application is not complete, they shall notify the applicant in writing of the reasons for such determination.

3.13.5.3 TECHNICAL REVIEW COMMITTEE

Upon determination that a complete application has been filed, the Planning Director shall refer the site plan to the Technical Review Committee. The Technical Review Committee shall review the plan at its next regularly scheduled meeting. Written committee review comments shall then be forwarded to the applicant.

3.13.6 DECISIONS ON SITE PLAN APPLICATIONS

The Planning Director shall have the authority to approve site plans, or to deny site plan approval on the grounds that the site plan submitted fails to comply with any specific requirements of this Ordinance. The decisions shall be provided in writing via first class mail to the applicant within 5 working days of the decision.

3.13.7 APPEAL

- 3.13.7.1** A decision of the Planning Director on an application for a Site Plan Review may be appealed to the Board of Adjustment by an aggrieved party. Such appeal shall be made within thirty (30) days of filing of the decision in the office of the Planning Director or the delivery of the notice required in Section 3.13.6, Decision on Site Plan Applications, whichever is later.
- 3.13.7.2** The official who made the decision to deny the Site Plan shall be present at the appeal hearing as a witness.
- 3.13.7.3** The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing to allow such party time to adequately prepare a response.
- 3.13.7.4** The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from. The Board of Adjustment shall make any order, requirement, decision, or determination that ought to be made.

3.13.8 VESTING

No statutory vested right is established by approval of a site plan.

3.13.9 MODIFICATIONS

Approval of modifications can be made to the approved Site Plan by applying the procedures and

criteria found in Sections 3.8.18, Minor Changes and Modifications and 3.8.19, Criteria Used for Determination, of this Ordinance.

3.13.10 REVOCATION

Site Plan Approval may be revoked by the issuing authority following the same procedure and applying the same criteria as established for revocation in Section 8.6.4.5, Revocation of Permits or Certificates, of this Ordinance.

3.13.11 EXPIRATION

Site plan approval expires twelve (12) months from the date of approval if a Zoning Compliance Permit has not been issued for the project.

3.14 ZONING COMPLIANCE PERMIT

3.14.1 INTENT

The intent of the Zoning Compliance Permit is to provide written documentation of the completion of the development review processes under this Ordinance. This permit is a pre-requisite to securing an Orange County Building Permit. A Zoning Compliance Permit documents a project's compliance with this Ordinance and with the *Administrative Manual* without regard to any contractual or other arrangements (including, but not limited to restrictive covenants) among private parties which may also affect the use of the property.

3.14.2 APPLICABILITY

It shall be unlawful to begin construction, place, or move any structure (including signs) or to begin to grade or excavate for immediate construction until the Planning Director has issued for such work a Zoning Compliance Permit. A Zoning Compliance Permit signifies a determination that the site plan, building specifications and the intended use of such structure conform in all respects to the provisions of this Ordinance.

Also, it shall be unlawful to change the type of use or type of occupancy of any building, or to alter or extend any use of any lot on which there is a non-conforming use, until the Planning Director has issued for such intended use a Zoning Compliance Permit, including a determination that the proposed use conforms in all respects to the provisions of this Ordinance.

3.14.3 GENERAL STANDARDS/FINDINGS OF FACT

The application materials, as specified in the *Administrative Manual*, when taken together provide sufficient evidence for the Planning Director to conclude that the project, with reasonable conditions, will comply with the provisions of this ordinance and the *Administrative Manual*.

3.14.4 PROCEDURE

If the proposed excavation, construction, relocating, alteration, or use of land as set forth in the application is in conformity with the provisions of this Ordinance, the Planning Director shall issue a Zoning Compliance Permit; however,

Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provision of this Ordinance.

Under no circumstances is the Planning Director permitted to vary the terms of this Ordinance, deviate from the apparent meaning of any clause, standard, or regulation contained in this Ordinance, or otherwise afford SPECIAL treatment to any person making application to excavate, construct, move, alter, or use either buildings, structures, or land.

Under no circumstances is the Planning Director permitted to make any changes to this Ordinance.

The Planning Director shall issue a Stop Work Order if a project is found to be under construction without a Zoning Compliance Permit, if a Zoning Compliance Permit is revoked in accordance with Section 8.6.4.5, Revocation of Permits or Certificates, or if work being undertaken is contrary to this Ordinance or any permit issued pursuant to this Ordinance.

3.14.5 FORMALIZING THE OUTCOME

The Planning Director shall issue a permit when the applicable provisions of this Ordinance are satisfied.

If an application for such a permit is not approved, the Planning Director shall state in writing the reason(s) for such denial.

3.14.6 APPEAL

Persons aggrieved by a decision or a determination made by the Planning Director may appeal that action to the Board of Adjustment, following the procedures established in Section 3.11, *Appeal*.

3.14.7 VESTING

A Zoning Compliance Permit does not confer a statutory vested right.

3.14.8 DEVIATIONS

If a site inspection reveals work undertaken does not comply with conditions and specifications of an approved Zoning Compliance Permit, the approved permit may be revoked, or a stop work order issued. Such stop work order shall remain in effect until the Planning Director determines that the work is in compliance with the provisions of this Ordinance and the *Administrative Manual*.

3.14.9 MODIFICATIONS

A Zoning Compliance Permit may be modified at the request of the applicant at any time before it expires. Such modification must comply with all provisions of this ordinance and the *Administrative Manual*. All modifications must be documented in writing.

3.14.10 REVOCATION

The Planning Director shall revoke a Zoning Compliance Permit if it is found to be issued in violation of any provisions of this Ordinance, or if the conditions stated on the permit are not satisfied.

3.14.11 EXPIRATION

A Zoning Compliance Permit shall be valid for 12 months from the date of issuance. In the case that the Zoning Compliance Permit authorizes a construction project that takes more than 12 months to complete, the permit shall be valid so long as the Orange County Building Permit for the project remains active and unexpired.

3.14.12 AUTHORIZING OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT

3.14.12.1 The Planning Director may authorize the use of a site or the occupancy of buildings prior to the completion of all improvements required by the approved permit for the development when completion of the work is delayed for reasons beyond the control of the permit recipient if the permit recipient provides a financial security satisfactory to the Planning Director to ensure that all permit requirements will be satisfied within a reasonable period (not to exceed 12 months from the date of the Planning Director's determination). The following circumstances may serve as the basis for a request under this subparagraph:

- 3.14.12.1.a** All building and fire code requirements have been satisfied for any building requesting approval for residential occupancy or use by the public.
- 3.14.12.1.b** Weather conditions being unacceptable to install required items (e.g. Wet conditions for paving, heat or dry conditions for landscaping).
- 3.14.12.1.c** Phased nature or large scale of a project creates significant time lag between portions of the project being ready for occupancy and full completion (e.g. Allowing occupancy of leasing office or certain residential buildings in an attached dwelling development).
- 3.14.12.1.d** Other situations beyond the applicant's control other than financial hardship.

3.14.12.2 The Planning Director shall take into consideration the following conditions prior to allowing use or occupancy before completion:

- 3.14.12.2.a** Adequacy of vehicle ingress and egress in the portion of the site to be used or occupied for occupants, construction traffic, town service vehicles, and emergency service vehicles.
- 3.14.12.2.b** Potential conflicts between construction activity and use or occupancy, including but not limited to: noise, lighting, pedestrian circulation, access to recreation or common areas, or injury or disturbance of comfort or peace of reasonable persons of normal sensibilities.
- 3.14.12.2.c** Length of performance period requested.
- 3.14.12.2.d** Any approved phasing plan or completion requirements enacted in the original or modified project approvals by the permit issuing authority.

3.14.12.2.e The relative significance of the uncompleted work to the overall project (e.g. Punch list items) and/or the portion requesting use or occupancy.

3.14.12.3 The permit recipient must supply an itemized, sealed design professional's estimate for the cost of the uncompleted portion of the project. A financial security (performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement) equal to 125% of the provided engineer's estimate. The town attorney shall review the financial surety for form and validity under North Carolina law.

3.14.12.4 The Planning Director may release the financial guarantee in phases as the work guaranteed is completed. Releases will be for the amount in the engineer's estimate, with the 125% amount being released with upon full completion of the project.

4. ZONING DISTRICTS

4.1 RESIDENTIAL BASE ZONING DISTRICTS

4.1.1 RESIDENTIAL DISTRICTS (R-20, R-15, R-10)

4.1.1.1 Intent

The purpose of these (R-20, R-15, R-10) districts is to provide locations for moderate intensity residential neighborhoods that include opportunities for development of supporting recreational, community service, and educational uses proximate to neighborhoods. These districts are created to encourage development of neighborhoods comprised chiefly of single-family detached units.

4.1.1.2 Application Criteria

These districts will usually be applied where the following conditions exist:

- 4.1.1.2.a Water and sewer lines exist at the site or are to be installed as part of the development process.
- 4.1.1.2.b There is direct vehicular access to a street classified as either collector or local.

4.1.2 RESIDENTIAL-40 DISTRICT (R-40)

4.1.2.1 Intent

The purpose of the Residential-40 (R-40) District is to provide locations for lower-density, traditional neighborhood living in the edge areas of the community. Residential uses include primarily single-family detached dwelling units.

4.1.2.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.1.2.2.a Average lot size shall be a minimum of 40,000 square feet within the proposed district.

4.1.3 HIGH INTENSITY RESIDENTIAL DISTRICTS (MF - MULTI-FAMILY AND MHP - MOBILE HOME PARK)

4.1.3.1 Intent

The purpose of the MF District is to provide locations for residential development that allows housing options at a higher density than typical detached single-family developments such as are intended for R-40, R-20, R-15 and R-10 districts. Prominent uses within this district include single-family attached units, townhouses, condominiums, apartments, and other multi-family dwelling units.

The purpose of the MHP District is to provide for the special conditions associated with mobile home park living. The district allows for a higher density of development than typically permitted in the residential districts and requires considerable on-site amenities.

4.1.3.2 Application Criteria

These districts will usually be applied where the following conditions exist:

- 4.1.3.2.a** Water and sewer lines exist at the site or are to be installed as part of the development process.
- 4.1.3.2.b** There is direct vehicular access to a public street classified as either collector or arterial.
- 4.1.3.2.c** Other necessary urban services exist nearby or are proposed at the time of the development.

4.1.4 AGRICULTURAL/RESIDENTIAL DISTRICT (AR)

4.1.4.1 Intent

The purpose of the AR District is to accommodate rural uses, including agricultural uses, uses that complement or support agricultural uses, and very-low density residential uses. The AR District is intended to encourage residential development that preserves farmland and other open space.

4.1.4.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.1.4.2.a** Adjacent to land already designated on the adopted Zoning Map as Agricultural/Residential.
- 4.1.4.2.b** The average lot size should be five (5) acres or more within the proposed district.

4.2 BUSINESS BASE ZONING DISTRICTS

4.2.1 ADAPTIVE RE-USE DISTRICT

4.2.1.1 Intent

The purpose of the redevelopment district is to accommodate proposals to redevelop existing developed and improved sites for which the owner/developer proposes a mixture of small-scale retail, residential, and light industrial uses (or a combination of such uses) to occupy structures originally constructed for other purposes.

4.2.1.2 Application Criteria

To qualify for rezoning to a redevelopment district, the area to be rezoned must meet the following criteria:

- 4.2.1.2.a** The site is improved at the time the rezoning is sought with a building of at least 10,000 sf originally constructed for retail, institutional or industrial purposes.
- 4.2.1.2.b** The parcel has access to at least one public street classified as a collector or greater
- 4.2.1.2.c** The owner intends to locate two or more uses from the permitted use list in the structure.
- 4.2.1.2.d** The parcel consists of at least 3 acres of land.

4.2.2 OFFICE/INSTITUTIONAL DISTRICT (OI)

4.2.2.1 Intent

The purpose of the OI District is to accommodate the location and establishment of medium density professional and business offices and institutions in close proximity to single-family detached residential units. This district is generally located near residential neighborhoods and often serves as a buffer or transition between residential neighborhoods and more intense business districts.

4.2.2.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.2.2.a** The site would provide a buffer or step down in intensity of land use between a commercial or industrial use and a less intense use.
- 4.2.2.2.b** Water and sewer lines exist at the site or are to be made available as part of the development process.
- 4.2.2.2.c** Vehicular access must consist of direct access to a street classified as either arterial or collector.

4.2.3 NEIGHBORHOOD BUSINESS DISTRICT (NB)

4.2.3.1 Intent

The purpose of the NB District is to accommodate small-scale, low-intensity, and convenience retail and service uses that provide goods and services to residents of the immediately surrounding neighborhood. Development in this district should not be out of character or scale with a residential neighborhood, nor should it attract traffic from outside the surrounding neighborhood. Performance standards shall be used to ensure the absence of adverse impacts beyond the immediate space occupied by the building.

4.2.3.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.3.2.a** Located at the intersection of either sub-collector or local streets.
- 4.2.3.2.b** Uses would generally not serve commuters or persons outside the surrounding neighborhood.
- 4.2.3.2.c** Water and sewer lines exist at the site or are to be installed as part of the development process.
- 4.2.3.2.d** Normally, the maximum amount of land zoned NB at any intersection shall not exceed one acre.

4.2.4 CENTRAL COMMERCIAL DISTRICT (CC)

4.2.4.1 Intent

The purpose of the CC District is to encourage the urban form and character found in the traditional downtown area, and to promote redevelopment that will make the historic core a more diverse and vibrant mixed-use center. The district is intended to accommodate a well-balanced mix of uses (commercial, office, service, and residential uses) within the historic central core of the Town. The core commercial areas are to be preserved and enhanced over the long term and should provide mixed-use opportunities that combine second floor residential units with ground floor non-residential uses.

Performance standards shall be used to insure the absence of adverse impacts beyond the zoning district boundaries.

4.2.4.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.4.2.a** Adjacent to existing central commercial district designation.
- 4.2.4.2.b** Uses would serve a market area population of major segments of the Town and through traffic.
- 4.2.4.2.c** Water and sewer lines exist at the site or are to be installed as part of the development process.
- 4.2.4.2.d** All property to be designated for new development under this classification shall have direct access to a paved public street.

4.2.5 GENERAL COMMERCIAL DISTRICT (GC)**4.2.5.1 Intent**

The purpose of the GC District is to accommodate a diverse range of retail, service, and office uses that provide goods and services to the residents and businesses in the community at large – e.g., shopping centers, convenience stores, and retail sales establishments. Performance standards shall be used to insure the absence of adverse impacts beyond the zoning district boundary.

4.2.5.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.5.2.a** Water and sewer lines exist at the site or are to be made available as part of the development process.
- 4.2.5.2.b** All property to be designated for new development under this classification shall have direct access to arterial streets.

4.2.6 HIGH INTENSITY COMMERCIAL DISTRICT (HIC)**4.2.6.1 Intent**

The purpose of the High Intensity Commercial district is to accommodate larger scale commercial, service and light industrial uses and smaller supporting commercial and service uses in areas with good vehicular and/or transit access, located away from areas used or designated for residential or other sensitive land uses. HIC districts should be located along major transportation corridors to provide adequate access and mobility to both local and regional customers. Performance standards shall be used to limit adverse impacts beyond the zoning district and on the natural environment.

4.2.6.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.6.2.a** Water and sewer lines exist at the site or are to be made available as part of the development process.
- 4.2.6.2.b** All property to be designated for new development under this classification shall have direct access to arterial streets.

4.2.7 GENERAL INDUSTRIAL DISTRICT (GI)**4.2.7.1 Intent**

The purpose of the General Industrial District is to accommodate manufacturing, assembly,

fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicles, materials, and goods, but that achieve high environmental quality standards and have minimal impacts on adjacent uses.

4.2.7.2 Application Criteria

This district will generally be applied where the following conditions exist:

- 4.2.7.2.a** Water and sewer lines exist at the site or are to be made available as a part of the development process.
- 4.2.7.2.b** Direct vehicular access is to a public street with immediate and convenient access to a street classified as an arterial. Immediate and convenient shall in this case mean traffic would not travel through or adjacent to an existing residential neighborhood to get from the site to the arterial road.
- 4.2.7.2.c** Rail access is desirable, but not required.

4.2.8 LIGHT INDUSTRIAL DISTRICT (LI)

4.2.8.1 Intent

The purpose of the LI district is to accommodate light manufacturing, research and development, and other small-scale uses that have minimal exterior movement of vehicles, materials, and goods, as well as minimal environmental and visual impacts.

4.2.8.2 Application Criteria

This district will generally be applied where the following conditions exist:

- 4.2.8.2.a** Water and sewer lines exist at the site or are to be made available as a part of the development process.
- 4.2.8.2.b** Direct vehicular access is to a public street with immediate and convenient access to a street classified as an arterial. Immediate and convenient shall in this case mean traffic would not travel through or adjacent to an existing residential neighborhood to get from the site to the arterial road.

4.2.9 ECONOMIC DEVELOPMENT DISTRICT (EDD)

4.2.9.1 Intent

The intent of the Economic Development District is to provide locations for a wide range of light industrial, distribution, flex space, office, service, and retail uses.

4.2.9.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.9.2.a** The property is adjacent and has access to an interstate highway by way of a major arterial or collector street. Adjacency to rail facilities for the movement of goods and which offer transit service potential is preferred, but not required.
- 4.2.9.2.b** Public water and sewer service are available or capable of being extended; and
- 4.2.9.2.c** Large, buildable tracts are available for development or division into a range of building site sizes.

4.2.10 LIMITED OFFICE DISTRICT (LO)

4.2.10.1 Intent

The intent of the Limited Office District is to provide locations for low traffic generating office and service enterprises.

4.2.10.2 Application Criteria

This district will usually be applied where water and sewer lines exist at the site or are to be made available as part of the development process.

4.2.11 BUSINESS PARK DISTRICT (BP)**4.2.11.1 Intent**

The intent of the Business Park District is to provide locations for a wide range of light industrial, distribution, flex space, office, and services with reasonable support retail in an organized setting.

4.2.11.2 Application Criteria

This district will usually be applied where the following conditions exist:

4.2.11.2.a The property is adjacent and with access to an interstate highway by way of a major arterial or collector street. Adjacency to rail facilities for the movement of goods and which offer transit service potential is preferred, but not required.

4.2.11.2.b Public water and sewer service are available or capable of being extended; and

4.2.11.2.b The minimum area suitable for this district classification is 20 acres, with the intent for the land in the district to be divided into buildable tracts of a variety of sizes for development or division into a range of building site sizes. Public streets of different classifications are reasonable to expect within the park district.

4.3 OVERLAY ZONING DISTRICTS**4.3.1 HISTORIC DISTRICT (HD)****4.3.1.1 Intent**

The purpose of the Historic District is to provide criteria to ensure that new buildings, structures and uses of land within the Historic District shall be consistent with the character of the existing buildings, structures and uses of land in the Historic District. Applicants must seek approval of a Certificate of Appropriateness for projects within this district, in accordance with Section 3.12, *Certificate of Appropriateness*. Criteria for evaluating projects in the Historic District are provided in the *Hillsborough Historic District Design Guidelines* as referenced in Section 3.12.3, *Standards of Evaluation*. It is not the intent of this Ordinance to require the reconstruction or restoration of individual or original buildings, or to impose any particular architectural style.

4.3.1.2 Application Criteria

The area defined by the official Zoning Map has been designated as having historic significance and having need of additional regulation to protect and preserve its historic significance and character. Among the ways this Overlay District shall provide protection are that no land currently zoned for residential use in the Historic Overlay District shall be

eligible for any density bonus which may otherwise be generally available in Hillsborough's zoning jurisdiction.

4.3.2 PLUS OVERLAY DISTRICT (+)

4.3.2.1 Intent

The purpose of the Plus Overlay District is to provide a broad area in which Class A and Class B mobile homes are permitted so as to avoid excessive limitations on mobile home location while maintaining desired residential standards within the Town.

4.3.2.2 Application Criteria

This district may be applied to any residential district located within the Town's extraterritorial jurisdiction and where fifty-one percent (51%) or more of the homes existing in the proposed plus overlay district are mobile homes.

4.3.3 NEIGHBORHOOD CONSERVATION DISTRICT (NC)

4.3.3.1 Intent

The purpose of the Neighborhood Conservation District is to provide a mechanism to identify and protect unique and distinctive older neighborhoods to ensure that future development or redevelopment is consistent with the existing, distinctive character.

4.3.3.2 Application Criteria

To be designated a Neighborhood Conservation District, the proposed area must meet the following criteria:

- 4.3.3.2.a** The area must contain a minimum of one block face (all the lots on one side of a block measured from intersecting street to intersecting street).
- 4.3.3.2.b** The area must have been platted or developed at least 40 years prior to the date of the application for the designation.
- 4.3.3.2.c** At least 75% of the land area in the proposed district is presently improved.
- 4.3.3.2.d** The area must be predominantly residential in use and character.
- 4.3.3.2.e** No property or area shall be placed in a Neighborhood Conservation District except upon petition signed by the owners of at least 75% of the lots or parcels in the proposed district, or through a supermajority vote of the Town Board.
- 4.3.3.2.f** The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association:
 - a. scale, size, type of construction, or distinctive building materials.
 - b. lot layouts, setbacks, street layouts, alleys or sidewalks.
 - c. special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping.
 - d. land use patterns, including mixed or unique uses or activities, or
 - e. abuts or links designated historic landmarks and/or districts.

4.4 SPECIAL USE ZONING DISTRICTS

With the adoption of North Carolina General Statutes 160-D, special use zoning was de-authorized

effective July 1, 2021. Existing Special use districts in Hillsborough remain in place until rezoning applications are enacted with the concurrence of property owners. The districts in this section are not available for property owners to request for new land. Only the intent section for each district was retained for those districts that have been applied within the town's jurisdiction.

4.4.1 ENTRANCEWAY SPECIAL USE DISTRICT (ESU)

4.4.1.1 Intent

The purpose of this district is to provide for the development of well-planned and fully integrated projects containing a diverse mixture of commercial, office, and employment uses along the primary entrances to the Town of Hillsborough. This district would be appropriate on major thoroughfares at or near the boundaries of the Town's zoning jurisdiction. This district is not intended to be a vehicle by which new, primarily residential uses are introduced, except where significant new commercial, office or employment uses are also incorporated into the district.

4.4.2 ASSISTIVE LIVING NEIGHBORHOOD DISTRICT (ALH)

4.4.2.1 Intent

The Assistive Living Neighborhood District is intended to permit development of property for residential use incorporating features or amenities designed to address the needs of retired persons, senior citizens, and/or disabled persons, and to allow for the inclusion in such developments of special or innovative amenities designed to address the needs of the residents. This intent may be accomplished through a variety of building types offering differing service levels to residents. This variety may include, but is not limited to detached houses, attached dwellings, and rooming units. Rezoning property to this district may result in a higher density than otherwise allowed in single-family residential districts or in the Multi-Family District. The Assistive Living Neighborhood District will have more on-site amenities than otherwise required, or permitted, in single-family residential districts or in the Multi-Family District.

4.4.3 MULTI-FAMILY SPECIAL USE DISTRICT (MFSU)

4.4.3.1 Intent

The purpose of this district is to provide for higher density, residential development of attached dwellings with on-site amenities, such as neighborhood commercial development.

4.4.4 RESIDENTIAL SPECIAL USE DISTRICT (RSU)

4.4.4.1 Intent

The purpose of the residential special use district is to create an open-ended use category for unique and diverse housing opportunities within existing residential districts as those districts age and redevelop.

4.4.5 CENTRAL COMMERCIAL SPECIAL USE DISTRICT (CCSU)

4.4.5.1 Intent

The purpose of the Central Commercial Special Use District is to encourage the urban form and character found in the traditional downtown area, and to promote redevelopment that will make the historic core a more diverse and vibrant mixed-use center. The district is intended to accommodate a well-balanced mix of uses (commercial, office, service, and residential uses) within the historic central core of the Town that may have unique characteristics that require additional review and consideration.

4.4.6 NEIGHBORHOOD BUSINESS SPECIAL USE DISTRICT (NBSU)

4.4.6.1 Intent

The purpose of the Neighborhood Business Special Use District is to accommodate small-scale, low-intensity, and convenience retail and service uses that provide goods and services to residents of the immediately surrounding neighborhood. Development in this district should not be out of character or scale with a residential neighborhood, nor should it attract traffic from outside the surrounding neighborhood.

4.5 OTHER ZONING DISTRICTS

4.5.1 UPPER ENO PROTECTED WATERSHED DISTRICT (PW)

4.5.1.1 Intent

It is the intent of the Town of Hillsborough to regulate the uses of land and structures in watersheds which drain into existing or proposed reservoirs supplying drinking water to the people of Orange County. The quality of water in these water supply watersheds can be affected by human activities including farming, construction of highways and subdivisions, and the growth of towns and industrial development. Types of water pollutants resulting from these activities include sediment, bacterial contamination, heavy metals, synthetic organic compounds, and low-level radioactivity. The intent of the Upper Eno Protected Watershed (PW) district is to apply a set of regulations for watershed protection to portions of the water supply watersheds in the town's jurisdiction which are presently mostly undeveloped, and where it is desirable to maintain the rural undeveloped character of the watershed in the future. The Upper Eno Protected Watershed has been designated WS II.

4.5.1.2 Designation

The new use of any land or any structure within the Upper Eno Protected Watershed district shall comply with the requirements of the Upper Eno Protected Watershed Section 4.5.3, *Requirements for Watershed Protection Districts*. All of the area so designated shall drain into the Upper Eno River and be a minimum of 5 miles from normal pool elevation of a reservoir or ten (10) miles upstream of river intakes. The Official Zoning Map indicates the location and boundaries of the district. A property owner can have his property designated or de-designated upon presentation of surveyed topographical data containing precise ridgeline locations indicating that the property lies within or outside the designated Watershed district.

4.5.2 UPPER ENO PROTECTED WATERSHED, CRITICAL AREA DISTRICT (PWCA)**4.5.2.1 Intent**

It is the intent of the Town of Hillsborough to regulate the uses of land and structures in the portions of the water supply watersheds which are immediately adjacent to the water supply impoundments. The quality of water in these water supply impoundments can be affected by human activities, including farming, construction, and nonresidential growth especially in the areas closest to impoundments. The intent of the Critical Area (PWCA) district is to apply a set of regulations for water supply protection to portions of the water supply watersheds which drain directly to water supply impoundments and which drain directly to the main channels of trunk streams feeding the impoundments so as to establish a higher development standard in these areas. The Upper Eno Critical Area has been designated WS II.

4.5.2.2 Designation

The new use of any land or any new structures within the Critical Area District shall comply with the requirements of the Critical Area District as described in Section 4.5.3, *Requirements for Watershed Protection Districts*. The area with this designation shall drain into the Upper Eno River and/or lies within 1/2 mile from the normal pool elevation or river intake. The Official Zoning Map indicates the location of the district. A property owner can have his property designated or de-designated upon presentation of surveyed topographical data indicating precise ridgeline location.

4.5.3 REQUIREMENTS FOR WATERSHED PROTECTION DISTRICTS**4.5.3.1 Authority**

This section is adopted and implemented under the authority granted by North Carolina General Statutes 143-214.5 (Chapter 143, Article 21).

4.5.3.2 Intent

Two (2) Watershed Protection Districts, as described in Section 4.5.1 and 4.5.2, have been established for lands within the watersheds of existing or potential drinking water rivers and reservoirs. These districts are delineated on the Hillsborough zoning map. Wherever standards of this Ordinance differ from the watershed standards, the more restrictive provisions shall apply.

4.5.3.3 Land Use Restrictions

As listed in Table 5.1.5, *Use Table – Residential Districts*, in conformance with the remainder of this section and with the following additional requirements:

4.5.3.3.a PWCA

- (a) No new landfills are permitted.
- (b) No land application of solid waste residuals.

4.5.3.3.b PW

- (a) No discharging landfills are permitted.

4.5.3.3.c Water Quality Standards

Odor producing substances contained in sewage or other wastes shall be

limited to such amounts, whether alone or in combination with other substances or wastes, as will not cause: taste and odor difficulties in water supplies which cannot be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class.

- i. Phenolic compounds shall not be present greater than 1.0 ug/l (phenols) to protect water supplies from taste and odor problems due to chlorinated phenols.
- ii. Total hardness shall not be greater than 100 mg/l as calcium carbonate.
- iii. Total dissolved hardness shall not be greater than 500 mg/l.
- iv. Toxic and other deleterious substances shall not exceed the following limits:

Table: Water Toxicity Limits, Non-Carcinogens Maximum permissible concentration to protect human health through water consumption and fish tissue consumption for non-carcinogens:	
Element	Maximum Level
Barium	1.0 mg/l
Chloride	250 mg/l
Manganese	200 ug/l
Nickel	25 ug/l
Nitrate nitrogen	10.0 mg/l
2,4-D	100 ug/l
2,4,5-TP (Silvex)	10 ug/l
Sulfates	250 mg/l

Table: Water Toxicity Limits, Carcinogens Maximum permissible concentrations to protect human health through water consumption and fish tissue for carcinogens:	
Element	Maximum Level
Beryllium	6.8 ng/l
Benzene	1.19 ug/l
Carbon Tetrachloride	0.254 ug/l
Chlorinated Benzenes	488 ug/l

Dioxin	0.000013 ng/l
Hexachlorobutadiene	0.445 ug/l
Polynuclear aromatic hydrocarbons	2.8 ng/l
Tetrachloroethane	0.8 ug/l
Trichloroethylene	3.08 ug/l
Vinyl Chloride	2 ug/l
Aldrin	0.127 ng/l
Chlordane	0.575 ng/l
DDT	0.588 ng/l
Dieldrin	0.135 ng/l
Heptachlor	0.208 ng/l

4.5.3.4 Setbacks

Building setbacks from property lines shall be as required by Section 6.3, *Dimensional Requirements*, with the following additional requirements:

4.5.3.4.a PWCA

- (a) No structures may be constructed within 150 feet of the high-water mark of a water supply impoundment
- (b) New septic tanks and their nitrification fields shall be located at least 100 feet from the edge of a water supply impoundment, or perennial or intermittent stream as shown on the USGS Quadrangle maps.
- (c) Applies only to lots created by preliminary plans for major subdivision and final plats for minor subdivisions approved or recorded after Sept. 30, 1993.

4.5.3.4.b PW

- (a) New septic tanks and their nitrification fields shall be located at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps.
- (b) Applies only to lots created by preliminary plans for major subdivision and final plats for minor subdivisions approved or recorded after Sept. 30, 1993.

4.5.3.5 Residential Density

4.5.3.5.a PWCA: 1 du/2 acres

4.5.3.5.b PW: 1 du/1 acre

4.5.3.6 Placement of Streets, Driveways, and Buildings

Streets, driveways, and buildings or other structures shall be located, to the extent reasonable possible, so as to take full advantage of the absorptive capacity of the soils on which they are to be situated and to avoid the following environmentally sensitive areas:

- (a) Streams buffer zones as required by Section 4.5.3.8.d;
- (b) Wetlands as defined by the U.S. Army Corps of Engineer;
- (c) Land with slopes greater than fifteen percent (15%); and
- (d) Natural areas as identified in the Inventory of Natural Areas and Wildlife Habitats of Orange County, NC.

To avoid creating lots that will be difficult to build upon in compliance with the standards of this section, the subdivision plats shall show proposed building envelopes and approximate driveway locations for all lots within such subdivisions. Thereafter, no zoning compliance permit may be issued for the construction of buildings or driveways outside the areas so designated on the preliminary plat unless the Planning Director makes a written finding that the proposed location complies with the provisions of this section.

4.5.3.7 Undisturbed Area

Because soils, which are seriously disturbed, even if re-vegetated, can generate nearly as much run-off as paved areas, a portion of property being developed within watershed critical areas must remain undisturbed during construction.

4.5.3.7.a Undisturbed Eno Critical Area

- (a) A minimum of the area necessary to meet impervious surface requirements shall remain undisturbed during the construction process.
- (b) The area to remain undisturbed shall include portions of the lot utilities for stormwater infiltration.
- (c) All clearing limits shall be clearly marked and observed.

4.5.3.7.b Undisturbed Eno Protected Watershed

- (a) As may be required pursuant to an approved grading permit or erosion control plan.

4.5.3.8 Riparian buffers**4.5.3.8.a Definition**

Riparian buffer is an area of land adjacent to perennial and intermittent streams, ponds, lakes and reservoirs which, except as stated below, must remain undisturbed in its natural state. For PW and PWCA zoning districts, perennial streams are those streams shown as solid blue or purple lines and intermittent streams as broken blue or purple lines on the most recent USGS Quadrangle maps for Orange County.

4.5.3.8.b Permitted Uses Within Riparian Buffers

The following uses are allowed as a matter of right in riparian buffers. All other uses are prohibited:

- (a) Above ground and buried utility lines for local distribution of electricity, telephone, and cable television service, accessory and appurtenant apparatus such as poles, guy wires, transformers, and switching boxes.
- (b) Bona fide farms, except any use of farm property for non-farm purposes.
- (c) Public and private streets, bridges, and railroad rights-of-way, provided that they enter and exit the buffer area as nearly perpendicular as possible.

4.5.3.8.c *Land Disturbance and Planting of Vegetation*

- (a) Area within a riparian buffer, which is subject to serious erosion, may be disturbed for the purpose of planting and maintaining erosion-resistant vegetative cover.
- (b) Existing forested areas or any other healthy vegetation cannot be removed from the riparian buffer, except where replaced with vegetation resulting in comparable stormwater runoff velocity and quantity one year after planting.
- (c) New vegetation shall be planted to capture non-source pollutants before they reach the perennial stream, as per Town of Hillsborough standards.
- (d) Flag poles, signs, security lights, and other structures, which result in only de minimus increases in impervious area.

4.5.3.8.d *Calculating Width of Riparian Buffer*

How to calculate slope value:

- (a) Draw a line perpendicular to the stream
- (b) Determine the elevation at the stream itself (a), and at the point 250' from the stream along the perpendicular line (b).
- (c) Subtract (a) from (b)
- (d) Divide (3) by 250
- (e) Multiply (4) by 100. This number is the "slope value".
- (f) Riparian buffer based on slope value. The width of the buffer shall be fifty (50) feet from each edge of the floodplain, plus the slope value multiplied by four.

4.5.3.8.e *Minimum Buffer Width Required*

- (a) Within the PWCA zoning district, the buffer width shall be the width calculated using Section 4.5.3.8.d, but not less than 100'.
- (b) Within the PW zoning district, the buffer width shall be 50', except where density exceeds 1 du/ac and impervious surface exceeds 12%.
- (c) Within the PW zoning district, where density exceeds 1 du/ac and impervious surface exceeds 12%, the buffer width shall be calculated as above, but shall not be less than 100'.

4.5.3.8.f Provisions for Agricultural Activities

Within the PWCA district, a 10' vegetated buffer is required for all agricultural activities conducted after July 1, 1993. The implementation of Best Management Practices (BMPs) is required for animal operations with greater than 100 animal units by July 1, 1994.

Agricultural uses in the PW district are not required to provide buffers or BMPs, but must meet statewide nondischarge rules. These discharge rules are implemented at the state level.

4.5.3.9 Water Supply/Sewage Disposal Facilities

No new septic tanks systems or individual alternative systems shall be located within a designated riparian buffer zone or within one hundred (100) feet of a perennial or intermittent stream as shown on the USGS Quadrangle maps for Orange County, whichever is the greater distance.

4.5.3.10 Clustering Lots within the Watershed Protection District

Clustering of residential lots is permitted where it does not violate standards of this section, excluding minimum lot size.

Within the protected watershed districts the following standards shall also apply to cluster developments and shall supersede Subdivision Regulation requirements:

- (a) Overall density of the project shall meet the density and stormwater control requirements of the appropriate protected watershed district.
- (b) Built-upon areas shall be designed and sited to minimize stormwater impact to the receiving waters and minimize concentration of stormwater flow.
- (c) The remainder of the tract shall remain in a vegetated or natural state.
- (d) Within the PW and PWCA districts, lots shall be a minimum of 10,000 square feet.
- (e) Within the PW and PWCA districts, setbacks in cluster developments shall follow those required in the residential zoning district (R-10-R-40) that most closely matches the proposed lot size in the development.
- (f) All cluster developments within the protected watershed districts shall be served by public water and sewer.
- (g) The title to the open space area shall be conveyed to a homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.

4.5.3.11 Stormwater Infiltration and Detention

As a watershed becomes more developed, the amount of impervious surface increases, causing a decrease in the rate at which stormwater runoff can be absorbed into the soil. This results in more stormwater flowing directly into streams and other water bodies.

Because this direct runoff has not been filtered through the soil, pollutants from the air

and land surface enter streams and increase the potential for pollution of drinking water supplies.

The effects of stormwater pollution on drinking water supplies can be minimized by one of two general approaches. First, the amount of stormwater runoff which reaches drinking water can be absorbed. This type of non-structural control is achieved through limitations on impervious surface. A second approach is to collect stormwater run-off in engineered ponds so that pollutants may settle. The water is then slowly released and contains fewer impurities when it reaches the water supply reservoir. The watershed protection standards adopted by the Town of Hillsborough utilize a combination of these two approaches.

4.5.3.11.a *Non-Structural Stormwater Control*

- (a) The first inch of stormwater run-off shall be controlled to the extent possible through on-site filtration and through the use of methods which rely on natural soil properties for absorption and treatment.
- (b) In order to promote infiltration of stormwater runoff into the soil and minimize direct and immediate runoff into streams and water supply impoundments, the maximum percentage of the total lot area that may be covered with an impervious surface shall be specified. This limit is referred to as the "impervious surface ratio".
- (c) Impervious surface calculations for an individual development shall be cumulative for original construction and any subsequent additional. One-half of the width of any existing or proposed road adjacent to an individual lot shall be included as impervious surface for that lot, except in the case where an existing road was contained within a dedicated public right-of-way on October 1, 1993. Infiltration techniques not only remove both suspended and dissolved pollutants, but they require less maintenance, reduce flooding, promote groundwater recharge, and help maintain stream flow during dry periods.
- (d) Where on-site infiltration methods are utilized, areas for such purposes shall be designated on the plat and shall remain undisturbed both during and after construction.
- (e) Undisturbed areas for infiltration of run-off shall also be located down slope from impervious surfaces and shall not include areas characterized by floodplains, highly erodible or impervious soils, steep slopes or previously disturbed areas. Areas designated as suitable for septic nitrification fields may not be used for stormwater infiltration purposes.
- (f) Run-off from roads, parking lots, and/or sidewalks shall be directed to undisturbed areas through use of berms, grassed diversion ditches or swales, or other acceptable means to reduce run-off velocity and filter out pollutants.

4.5.3.11.b Structural Measures

- (a) Non-structural methods may not adequately control the first inch of stormwater runoff due to the amount of impervious surface proposed to be developed, and other factors such as soil type, slope, presence of floodplains and erodible soils, and/or lack of vegetative cover. In such cases, structural detention ponds, which capture stormwater for slow release through an outlet, are required.
- (b) All 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 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 architect, to the extent that the General Statutes, Chapter 89A allow, and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89(C)-3(7).
- (c) All stormwater controls shall use wet detention ponds as a primary treatment system. Wet detention ponds shall be designed for specific pollutant removal according to the modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
 - i. Wet detention ponds shall be designed to remove 85% of total suspended solids in the permanent pool and storage runoff from a one-inch rainfall from the site above the permanent pool.
 - ii. The designed runoff storage volume shall be above the permanent pool.
 - iii. The discharge rate from these systems following the one-inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days.
 - iv. The mean permanent pool depth shall be a minimum of three (3) feet.
 - v. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features.
- (d) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a 10-year, 24-hour storm with a 10-year, 1-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
- (e) In addition to the vegetative filters required in Section 4.5.3.11.b.d, all land

areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 4.5.3.13, *Maintenance and Upkeep*.

- (f) A description of the area containing the stormwater control structure shall be prepared and filed consistent with this section, as a separate deed with the Orange County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.
- (g) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon for one site, it shall not be used to compute built-upon area for any other site.

4.5.3.11.c *Impervious Surface and Detention Pond Requirements*

For all protected watersheds, there is an absolute limit on the percentage of lot area that can be covered with impervious surfaces. In some cases, detention ponds are required when the proposed impervious surface ratio exceeds a specified percentage, which is below the absolute limit.

(a) Residential Development

- i. PWCA 6% impervious surface limit OR 2 acre minimum lot size. BMPs are not required
- ii. PW30% impervious surface limit, with BMPs required if impervious surface exceeds 12%

(b) Non-Residential Development

- i. PWCA Up to 6% impervious surface without BMPs 6% - 24% with BMPs
- ii. PW Up to 70% impervious surface, with BMPs required when impervious surface exceeds 12%*

*After new non-residential development with impervious surface greater than 12% occurs on 10% of the watershed, impervious surface for the subsequent development may not exceed 30%, and BMPs will be required when impervious surface exceeds 12%.

4.5.3.12 Operation and Maintenance of Detention Ponds

4.5.3.12.a *Posting of Financial Security*

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

(a) Security Performance Bond or Other Security:

- i. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business on North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the Town of Hillsborough or placed in escrow with a financial institution designated as an official depository of the Town of Hillsborough. 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 Utilities Director. The total cost of the stormwater control structure shall include the value of 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.
- ii. Upon default of the permit applicant to complete and or maintain the stormwater control structure as spelled out in the performance bond or other security, the Town of Hillsborough may obtain and use all or any portion of the funds necessary to complete the improvements based on the engineering estimate. The Board shall return any funds not spent in completing the improvements to the owning entity.

(b) Cash or Equivalent Security Deposited After Release of the Performance Bond

- i. Consistent with Section 4.5.3.12.a.a, *Security Performance Bond or Other Security*, the permit applicant shall deposit with the Town of Hillsborough either cash or other instrument approved by the Town Attorney that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen (15) percent of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the stormwater structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 4.5.3.13.a, *Operation and Maintenance Plan Required*. The amount shall be computed by estimating the maintenance cost for twenty-five (25) years and multiplying this amount by two-fifths or 0.4.
- ii. Upon default of the owning entity to maintain, repair and if necessary, reconstruct the stormwater control structure in accordance with the Operation and Maintenance Agreement, the Town shall obtain and use all or any portion of the security provided to make necessary improvements based on an engineering estimate. Such expenditures of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the Operation and Maintenance Agreement. The Town shall not return any of the deposited cash funds.

4.5.3.13 Maintenance and Upkeep**4.5.3.13.a Operation and Maintenance Agreement Required**

The permit applicant shall enter into a binding Operation and Maintenance Agreement with the Town of Hillsborough and all others with interests in the land served by the stormwater control structure. Said Agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual

approved by the developer. The Operations and Maintenance agreement shall be filed with the Orange County Register of Deeds.

4.5.3.13.b Operation and Maintenance Plan Required

An operation and maintenance plan or manual shall be provided by the developer for each 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 Operations and Maintenance Agreement, who is responsible for those actions. The Plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to its design specifications if a failure occurs.

4.5.3.13.c Landscaping and Grounds Maintenance

Landscaping and grounds maintenance 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 control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater structure.

4.5.3.13.d Repair or Reconstruction

Except for general landscaping and grounds maintenance, the owning entity shall notify the Town prior to any repair or reconstruction of the stormwater structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operations and maintenance plan or manual. After notification by the owning entity, the Utilities Director and/or Erosion Control Supervisor shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.

4.5.3.13.e Minor Amendments to Plans and Specifications

Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual may be approved by the Utilities Director, provided that the changes do not involve a change in the size or location of the structure. Plans for such proposed changes shall be prepared by 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 Utilities Director.

(a) If the Utilities Director approves the proposed changes, the owning

entity of the stormwater control structure shall file sealed copies of the revisions with the Utilities Director.

- (b) If the Utilities Director disapproves the changes, the proposal may be revised and resubmitted as a new proposal. If the proposal has not been revised, and is essentially the same as that already reviewed, it shall be returned to the applicant.
- (c) The Utilities Director shall report any such revisions to the Town Board at the next available regular meeting.

4.5.3.13.f *Major Amendments to Plans and Specifications*

Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual that involve a change in the size or location may be approved by the Town Board after receiving a recommendation from the Utilities Director. 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 Utilities Director.

4.5.3.13.g *Revision of Plan Required If Found to be Inadequate*

If the Utilities Director finds that the operations and maintenance plan or manual is inadequate for any reason, the owning entity shall be notified of any required changes and shall prepare and file copies of the revised agreement with the Orange County Register of Deeds, Utilities Director, and the owning entity.

4.5.3.14 **Inspection and Release of the Performance Bond**

4.5.3.14.a *Inspection by Utilities Director*

The stormwater control structure shall be inspected by the Utilities Director, after the owning entity notifies the Utilities Director that all work has been completed. At this inspection, the owning entity shall provide:

- (a) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the Orange County Register of Deeds; and
- (b) A certification sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) stating that the detention pond is complete and consistent with the plans and specifications.
- (c) If the Utilities Director approves the inspection and accepts the certification, deed and easements, he/she shall file the deed and easements with the Orange County Register of Deeds, release up to seventy five (75) percent of the value of the performance bond or other security and issue a watershed protection compliance permit for the stormwater control structure.
- (d) If deficiencies are found, the Utilities Director shall direct that the improvements and inspections be made and/or documents corrected

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and resubmitted to the Utilities Director.

4.5.3.14.b *Watershed Protection Compliance Permit Required Prior to Occupancy*

No building permit or certificate of occupancy may be issued in the absence of a valid Watershed Protection Compliance Permit.

4.5.3.14.c *Release of Remaining Security*

- (a) No sooner than one (1) year after the filing date of the deed, easements and maintenance agreement, the developer may petition the Town Board to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Utilities Director shall inspect the stormwater control to determine whether the controls are performing as designed and intended. The Utilities Director shall present the petition, inspection report and recommendations to the Town Board.
- (b) If the Town Board approves the report and accepts the petition, the developer shall deposit with Town of Hillsborough a cash amount equal to that described in Section 4.5.3.12.a, *Posting a Financial Security*, after which, the Board shall release the performance bond or other security.
- (c) If the Town Board does not accept the report and rejects the petition, it shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.

4.5.3.14.d *Annual Inspection Required*

- (a) All stormwater structures shall be inspected at least on an annual basis to determine whether the controls are performing as designed and intended. Annual inspections shall begin within one (1) year of the filing date of the deed for the stormwater control structure.
- (b) In the event the Utilities Director discovers the need for corrective action of improvements, he/she shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and maintenance plan or manual. After notification by the owning entity, the Utilities Director shall inspect and approve the completed improvements.

4.5.3.14.e *Appeals*

Any requirements, decision or determination of the Utilities Director may be appealed to the Board of Adjustment for consideration.

4.5.4 APPLICABILITY

4.5.4.1 Existing Development

Existing development is not subject to the requirements of this section. Existing developments include projects that are built, or at a minimum have established a vested right under North Carolina zoning laws as of October 1, 1993 based on at least one of the

following criteria:

- 4.5.4.1.a** Substantial expenditures of resources (time labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- 4.5.4.1.b** Having an outstanding valid building or Zoning Compliance Permit; or
- 4.5.4.1.c** Having expended substantial resources and having an approved site-specific or phased development plan.

4.5.4.2 Existing Lots

A deeded single-family lot owned by an individual prior to the effective date of this section, or any subsequent owner, regardless of whether a vested right has been established, is not subject to the development restrictions of this section. This exemption does not apply to multiple lots under single ownership (i.e., to a developer of a residential subdivision).

4.5.4.3 Redevelopment

Non-residential redevelopment is allowed if the rebuilding activity does not result in a net increase in built-upon area or provides equal or greater stormwater control than the previous development. There is no restriction on single-family redevelopment.

4.5.4.4 Expansion of Existing or New Developments

Expansion to structures classified as existing development must meet the requirements of this section, however, the impervious surface and lot area involved in the existing development is not required to be included in the calculation of the impervious surface ratio.

Expansions to structures other than existing development must meet the density requirements for the entire project.

4.5.5 ADMINISTRATION

4.5.5.1 Appeals

Decisions of the Planning Director in the implementation of this section may be appealed to the Hillsborough Board of Adjustment in accordance with Section 3.11, *Appeals*.

4.5.5.2 Variances

Development activities may be granted minor and major variances by the Board of Adjustment in accordance with this subsection.

- 4.5.5.2.a** A record of all variances (major and minor) granted by the Board of Adjustment shall be submitted to the Division of Water Quality on or before January 1 of each year. The record shall include a description of the project and the reason for granting the variance.
- 4.5.5.2.b** All other local governments having jurisdiction within the watershed area and the entity using the water supply for consumption shall be notified of the proposed variance. Comments from these entities shall be submitted to the Planning Director before the Board of Adjustment decision and shall be made a part of the record of the Board of Adjustment decision.

4.5.5.2.c A variance that results in one more of the following shall be considered a major variance, requiring review by the Board of Adjustment and approval by the Environmental Management Commission before it becomes effective:

- (a) The complete waiver of a management requirement.
- (b) The relaxation by more than ten percent of any management requirements takes the form of a numerical standard.
- (c) The relaxation of any management requirement that applies to a development project requiring construction of a detention pond.
- (d) All requests for increased density or built-upon area.
- (e) All other requests shall be considered minor variances.

4.5.5.2.d Before the Board of Adjustment may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

- (a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical or unnecessary hardships, the Board must find that all of the five following conditions exist:
 - i. If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
 - ii. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
 - iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
 - iv. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
 - v. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

- (b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- (c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

4.5.5.2.e Findings may be made by a simple majority vote by the members of the Board of Adjustment. The vote to grant any variance must be a 4/5ths majority.

4.5.5.2.f In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for the construction, alteration, or use of property is granted, such construction, alteration, or use shall be in accordance with the approved site plan.

4.5.5.2.g If the Board of Adjustment decides in favor of granting a major variance, the Board shall prepare a preliminary record of the hearing as soon as reasonably possible. The preliminary record shall include:

- (a) The variance application
- (b) The hearing notices
- (c) The evidence presented
- (d) Motions, offers of proof, objections to evidence, and rulings on them
- (e) Proposed findings and exceptions
- (f) The proposed decision, including all conditions proposed to be added to the permit

4.5.5.2.h The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

- (a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
- (b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a

reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

- 4.5.5.2.i** The Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied unless it finds that there have been substantial changes in conditions or circumstances bearing on the appeal or application.

4.6.1 PLANNED DEVELOPMENT (PD)

4.6.1.1 Intent

In return for greater flexibility in site design requirements, PDs (Planned Developments) are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide above-average open space and recreational amenities; incorporate creative design in building, open space and circulation layout; assure compatibility with surrounding land use and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure. This will be accomplished through application of performance standards ensuring:

1. integration and mixing, rather than separation of uses, so that retail, office, recreational and educational facilities are conveniently located in relation to housing;
2. interconnectivity between uses and adjoining developments;
3. design of development occurs at a scale that is consistent with Hillsborough's character;
4. establishment of land use patterns that promote and expand opportunities for public transportation and efficient, compact networks of streets and utilities that lower development and maintenance costs and conserve energy;
5. preservation of natural features and the natural environment;
6. public facilities are available to serve the proposed development.

4.6.1.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.6.1.2.a** The property is classified as Attached Residential, Employment, Mixed Residential, Mixed Use, Neighborhood mixed Use or Suburban Office on the Town's adopted Future Land Use Map. However, application of the PD district

may be allowed within other land use categories at the discretion of the Town Board.

- 4.6.1.2.b** The property is six acres or greater in area. Application of the PD designation to properties less than six acres may be considered where the Town Board, upon recommendation of the Planning Board, finds:
- (a) the project qualifies as “infill development”; or
 - (b) unusual physical or topographic features of importance to the area as a whole or the Town in general exist on-site or within the surrounding neighborhood that will contribute to and be protected by the PD; or
 - (c) the property or surrounding area has an historic character of community importance that the PD will protect; or
 - (d) the proposed PD is adjacent to an approved, completed PD and will contribute to the amenities and values of the neighboring PD.
- 4.6.1.2.c** The property has direct access to streets classified by the North Carolina Department of Transportation or the Town as arterial or collector.
- 4.6.1.2.d** Public water and sewer service are available or capable of being extended to the property.

5. USE STANDARDS

5.1 USE TABLE

5.1.1 EXPLANATION OF USE TABLE STRUCTURE

For each base zoning district established in this Ordinance, Table 5.1.7, *Use Table-Residential Districts* and 5.1.8, *Use Table-Non-Residential Districts*, lists land uses and indicates whether individual uses are:

- 5.1.1.1 Permitted by right
- 5.1.1.2 Permitted with a Special Use Permit
- 5.1.1.3 Permitted as a combination use

The permitted uses within an overlay zoning district shall be those allowed in the underlying base zoning district. Uses not listed in the Use Tables, Tables 5.1.5 and 5.1.6, are prohibited.

5.1.2 TRANSITION PROVISIONS TO ADDRESS NORTH CAROLINA GENERAL STATUTES 160D DEAUTHORIZATION OF SPECIAL USE ZONING

With the adoption of North Carolina General Statutes Chapter 160D, Special use zoning was de-authorized effective July 1, 2021. Existing Special use districts in Hillsborough remain in place until rezoning applications are enacted with the concurrence of property owners.

All uses within the existing special use districts require Special Use Permits consistent with the process established in Section 3.8, *Special Use Permits*.

5.1.3 USES PERMITTED IN ALL DISTRICTS

- 5.1.3.1 **Within** all districts there are certain uses permitted as a matter of right that are not specifically included within Table 5.1.5, *Use Table-Residential* and Table 5.1.6, *Use Table-Non-Residential*. The following uses are allowed in all districts without a Zoning Compliance Permit provided they meet other applicable requirements of this Ordinance:

- 5.1.3.1.a Above ground and buried utility lines for local distribution of electricity, telephone, and cable television service; accessory and appurtenant apparatus such as poles, guy wires, transformers and switching boxes. **High voltage transmission lines are not included in this exception.**
- 5.1.3.1.b Temporary buildings and structures used in connection with the construction of a permanent building.
- 5.1.3.1.c Off street parking as a required accessory use to a permitted use.
- 5.1.3.1.d Public and private streets and roads and railroad rights-of-way.
- 5.1.3.1.e Sanitary sewer collection lines, water, gas, and liquid fuel distribution lines, and any necessary on-line pumping stations.

- 5.1.3.2 The following uses are also permitted in all zoning districts upon the issuance of a Zoning Compliance permit documenting compliance with relevant provisions of this Ordinance:

- 5.1.3.2.a Fences

- 5.1.3.2.b** Accessory buildings in residential districts that are fifty square feet or larger. This includes but is not limited to storage buildings, garages, carports, and any structure designed to provide weather protection to people, animals, supplies, household items, vehicles or equipment.

5.1.4 COMBINATION USES

- 5.1.4.1** A combination use is a use consisting of a combination on one lot of two or more principal uses separately listed in the Permitted Use Table. Combination uses shall be permissible on a lot only if each component principal use is permissible in the district where the lot is located.
- 5.1.4.2** When a combination use consists of two or more principal uses each of which requires a different type of permit (Zoning Compliance Permits or Special Use Permit) then the permit authorizing the combination use shall be:
- 5.1.4.2.a** Special Use Permit if any of the principal uses combined requires a Special Use Permit.
- 5.1.4.2.b** Zoning Compliance Permit in all other cases.
- 5.1.4.3** When two principal uses are combined, the total amount of parking required for the combination use shall be determined by adding together the amount of parking required for each individual principal use according to the relative amount of space occupied by that use, taking into consideration any shared parking allowed under this Ordinance.

5.1.5 ACCESSORY USES

- 5.1.5.1** The following list provides examples of expected accessory uses in residential zoning districts. This list is not exhaustive. When determining whether an activity is an allowed accessory use, the definition of accessory use and the impact of the activity shall be considered. Zoning Compliance Permits are not needed for allowed accessory uses. Items not included on this list may be allowed as combination uses in compliance with Section 5.1.4.
- 5.1.5.1.a** Yard and/or garage sales occurring on no more than 3 days in any 90-day period.
- 5.1.5.1.b** Parking/storage of unused boat/RV.
- 5.1.5.1.c** Occupation of RV/tent by guests or minor residents for no longer than 2 weeks in 60 any day period.
- 5.1.5.1.d** Occupation of RV during construction of new or major renovation of single-family residence as long as the building permit is valid.
- 5.1.5.1.e** display of a single vehicle for sale at any one time, not to exceed 2 per year.
- 5.1.5.1.f** Placement of movable storage unit used for storage only, not to exceed 60 days in any 180-day period.
- 5.1.5.1.g** Tree houses, play structures, trampoline, or other residential recreation structures that are not permanently affixed to the ground.

- 5.1.5.1.h** Hobbies & recreational activities of a non-commercial nature, which do not fall within the definition of a “home occupation.”
- 5.1.5.1.i** Garden statuary, garden structures (excluding storage buildings), and art may be located in the back area, provided the footprint of such features does not exceed the permit threshold of fifty square feet in area.
- 5.1.5.1.j** Private or public events that do not meet permit thresholds pursuant to a separate permit process established in the Town Code.
- 5.1.5.1.k** Agricultural activities for the personal use of the resident or in support of a licensed home occupation including but not limited to growing herbs, fruits and vegetables, raising fowl or livestock consistent with the Town Code provisions on keeping animals, and beekeeping. The area dedicated to raising products for a home occupation must be included in the square footage calculation of the home occupation.

5.1.5.2 The following list provides examples of expected accessory uses in non-residential zoning districts. This list is not exhaustive. When determining whether an activity is an allowed accessory use, the definition of accessory use and the impact of the activity shall be considered. Zoning Compliance Permits are not needed for allowed accessory uses. Items not included on this list may be allowed as combination used in compliance with Section 5.1.4.

- 5.1.5.2.a** Special events permitted pursuant to a separate permitting process established in the Town Code
- 5.1.5.2.b** Special events that do not exceed the permit thresholds for event process in town code
- 5.1.5.2.c** Parking of storage containers, wholly behind the building in locations not needed for required parking or traffic circulation, and screened from adjoining properties
- 5.1.5.2.d** Outdoor dining or customer seating when provided in a manner and location that is not assigned or required for another purpose.

5.1.6 TEMPORARY SEASONAL SALES ON NON-RESIDENTIALLY ZONED PROPERTY

5.1.6.1 The purpose of this subsection is to provide standards and a permitting system for temporary seasonal sales not associated with an existing business within the Town’s jurisdiction in order to protect public health, safety, and general welfare and to regulate uses which may otherwise be non-conforming for a particular zoning area. The provisions of this section shall not apply to peddlers as defined in North Carolina General Statutes, Section 105-53(a).

Examples of temporary seasonal sales include but are not limited to Christmas trees, produce, pumpkins, and fireworks.

5.1.6.2 APPLICATION REQUIREMENTS

Temporary seasonal sales may be allowed on non-residentially zoned properties upon

the issuance of Zoning Compliance Permit by the Planning Department. All applicants shall provide the following information:

- 5.1.6.2.a** A description of the proposed seasonal sale, the proposed beginning and ending dates of the use, and the proposed hours of operation. The description shall clearly indicate the items to be sold and the season or holiday the sales are related to.
- 5.1.6.2.b** Address and/or PIN of the property to be used for the seasonal sale.
- 5.1.6.2.c** A drawing showing existing site development and the location of the display areas, parking areas, and any subsequent temporary structures and/or tents for the seasonal sale. The drawing shall also show the number of parking spaces on the site and how many will be encumbered by the seasonal sale (both customers and set-up).
- 5.1.6.2.d** Written consent from the property owner.
- 5.1.6.2.e** Name and phone number(s) of the on-site manager and a contact person(s) in the case of an emergency after hours.
- 5.1.6.2.f** Acknowledgement that the site will be cleared of all solid waste, debris, and other features related to the temporary seasonal sale within two (2) business days of the end date of the temporary seasonal sale.

5.1.6.3 USE STANDARDS

- 5.1.6.3.a** The display of items, temporary structures (including tents) and parking associated with the seasonal sale shall comply with the applicable building setback for the property.
- 5.1.6.3.b** Signage and lighting associated with the seasonal sale shall comply with the requirements for the zoning district.
- 5.1.6.3.c** On single business tracts, a seasonal sales may occupy or use up to 25% of the required parking areas unless either the temporary or permanent use is particularly hazardous or a high traffic generator or such encroachment on required parking presents a clear danger to the public health or safety, as determined by the Planning staff.
- 5.1.6.3.d** On multi-tenant tracts, a seasonal sale may occupy or use up to 25% of the required parking for the sponsoring tenant. Such sales shall be located so as not to occupy or clearly impact the parking for neighboring uses.

5.1.6.4 DURATION AND FREQUENCY OF PERMITS

- 5.1.6.4.a** A single temporary season sale event may last no more than 60 consecutive calendar days.
- 5.1.6.4.b** No parcel may receive more than three permits within the same calendar year.
- 5.1.6.4.c** At least fourteen calendar days must separate the end of one permit and the beginning of another permit at the same location.

5.1.6.5 REVOCATION OF PERMITS

Compliance with the above standards will be monitored by the Planning Department. A Zoning Compliance Permit will be revoked under the following circumstances:

- 5.1.6.5.a** One of the use standards is violated.
- 5.1.6.5.b** Information submitted with the application is found to be inaccurate.
- 5.1.6.5.c** Any necessary town, county, or state permit(s) have not been obtained.
- 5.1.6.5.d** The temporary use poses a threat to the public health or safety of the community.

5.1.7 TABLE: USE TABLE FOR RESIDENTIAL DISTRICTS

P = Permitted by Right

SUP = Permitted with a Special Use Permit

+ = When also in the Plus Overlay district

	AR	R-40	R-20	R-15	R-10	MF	MHP	PW	PWCA		MFSU	ALN	RSU
Adult Day Care												SUP	
Adult Use													
Artisan Studio													SUP
Bank & Financial Institution													
Bar													
Bed and Breakfast Facility	P	P	SUP	SUP	SUP								
Botanical Garden & Arboretum	P												
Building/Trade Contractor's office													
Cemetery	SUP	SUP	SUP	SUP	SUP								
Child Day Care		SUP	SUP	SUP	SUP								
Church, Place of worship	SUP	SUP	SUP	SUP	SUP			SUP	SUP		SUP	SUP	
Detention Facility													
Dwelling: Accessory	P	P	P	P	P			P	P		SUP	SUP	SUP
Dwelling: Attached (1-4 units)	P	P	P	P	P	P					SUP	SUP	SUP
Dwelling: Attached (5-19 units)			P	P	P	P					SUP	SUP	SUP
Dwelling: Attached (20+ units)	SUP	SUP	SUP	SUP	SUP	P					SUP	SUP	SUP
Dwelling: Mobile Home A	P	P	P	P	P		P						
Dwelling: Mobile Home B					+		P						
Dwelling: Mobile Home C							P						
Dwelling: Single-family	P	P	P	P	P	P	P	P	P		P	P	SUP
Electronic Gaming Operation													
Event Center													
Extended Care Facility												SUP	
Family Care Home	P	P	P	P	P	P	P						
Family Child Care Home	P	P	SUP	SUP	SUP								
Farm, Bona fide	P	P											
Farmer's Market													
Flex Space													

5.1.7 TABLE: USE TABLE FOR RESIDENTIAL DISTRICTS

P = Permitted by Right

SUP = Permitted with a Special Use Permit

+ = When also in the Plus Overlay district

	AR	R-40	R-20	R-15	R-10	MF	MHP	PW	PWCA		MFSU	ALN	RSU
Food Preparation Business													
Funeral Home													
Gallery/Museum	P												SUP
Government Maintenance Yard													
Greenhouses/Nursery	P												
Group Care Facility	P	P	P	P	P								
Health Care Facility													
Health/Fitness Club													
Homeless Shelter			SUP	SUP	SUP			SUP	SUP		SUP	SUP	
Hospitals													
Hotels & Motels													
Junkyard/Outside Storage of Junked or Wrecked Motor Vehicles													
Kennels, Boarding	SUP												
Library													
Manufacturing Complex													
Meeting Facility													SUP
Mobile Home Park							P						
Motor Vehicle Fuel Station													
Motor Vehicle Maintenance, & Service													
Motor Vehicle Repair													
Motor Vehicle Sales & Rentals													
Office operations													
Offices and professional services													
Order Fulfillment Center													
Outlet sales													

5.1.7 TABLE: USE TABLE FOR RESIDENTIAL DISTRICTS

P = Permitted by Right

SUP = Permitted with a Special Use Permit

+ = When also in the Plus Overlay district

	AR	R-40	R-20	R-15	R-10	MF	MHP	PW	PWCA		MFSU	ALN	RSU
Park, Athletic or Community	SUP	SUP	SUP	SUP	SUP								
Park, Cultural or Natural	P	P	P	P	P	P	P						
Park, Neighborhood	P	P	P	P	P	P	P						
Park and Ride Facility													
Parking as Principal Use, Surface or Structure													
Performance Facility													
Personal service business													SUP
Petroleum Products (storage & distribution)													
Pharmacy, Convenience													
Pharmacy, Retail													
Postal and Parcel Delivery Services													
Processing Facility													
Public Safety Services	P	P	P	P	P								
Public Utilities	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	
Recreational Facilities													
Research Facility													
Research Facility, Intense													
Restaurant													
Restaurant, Convenience													
Retail sales/rentals of goods with outside display/storage of merchandise													
Retail sales/rentals of goods within wholly enclosed structure													
School: Art & Music													
School: Dance, Martial Arts													

5.1.7 TABLE: USE TABLE FOR RESIDENTIAL DISTRICTS

P = Permitted by Right

SUP = Permitted with a Special Use Permit

+ = When also in the Plus Overlay district

	AR	R-40	R-20	R-15	R-10	MF	MHP	PW	PWCA		MFSU	ALN	RSU
School: Elementary, Middle & Secondary													
School: Higher Education													
School: Vocational													
Short-term Rental	P	P	P	P	P								
Storage & Warehousing: Inside building, excluding explosives & hazardous wastes													
Storage & Warehousing: Outside													
Storage & Warehousing: Self													
Telecommunication Tower	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	
Temporary Family Health Care Structure	P	P	P	P	P								
Transit Passenger Terminal													
Transmission Lines	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	
Veterinarian/Animal Hospital													
Wholesale sales, indoor													
Wholesale sales, with outdoor storage/display													

5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS

P = Permitted by Right

SUP = Permitted with a Special Use Permit

PA = Permitted as accessory use

* = Refer to 5.2.47

	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
Adult Day Care			P			P							SUP	SUP	SUP
Adult Use						SUP									
Artisan Studio	P	P	P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Bank & Financial Institution	P		P	SUP	P	P		P	P				SUP		SUP
Bar				P	P	P	P		P				SUP		SUP
Bed and Breakfast Facility															
Botanical Garden & Arboretum		P	P	P	P	P	P				P		SUP		
Brewery		SUP			P	P	P	P	P	P	P				
Building/Trade Contractor's office		P			P	P		P	P	P	P		SUP		
Cemetery			SUP			SUP									
Child Day Care		P	P		P	P	P	P	P				SUP	SUP	SUP
Church, Place of worship		P	P	P			P		P				SUP	SUP	SUP
Detention Facility			SUP						SUP						
Dwelling: Accessory		P	P	P	P	P		P					SUP	SUP	SUP
Dwelling: Attached (1-4 units)				P			P				SUP		SUP	SUP	SUP
Dwelling: Attached (5-19 units)				P			P				SUP		SUP		SUP
Dwelling: Attached (20+ units)				SUP			P				SUP		SUP		SUP
Dwelling: Mobile Home A															
Dwelling: Mobile Home B															
Dwelling: Mobile Home C															
Dwelling: Single-family		P	P	P	P	P							SUP	SUP	SUP
Electronic Gaming Operation		PA		PA	PA/SUP	PA/SUP								SUP	
Event Center			P	SUP	P	P	P	P	P				SUP	SUP	SUP
Extended Care Facility			P			P							SUP		SUP
Family Care Home													SUP	SUP	SUP
Family Child Care Home														SUP	
Farm, Bona fide															
Farmer's Market		P	P	P	P	P	P		P	P	P		SUP		SUP

5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS

P = Permitted by Right	SUP = Permitted with a Special Use Permit						PA = Permitted as accessory use					* = Refer to 5.2.47			
	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
Flex Space						P	P	P	P	P	P		SUP		SUP
Food Preparation Business					P	P	P		P	P	P		SUP	SUP	
Funeral Home	P		P	P	P	P			P				SUP	SUP	SUP
Gallery/Museum	P	P	P	P	P	P	P						SUP	SUP	SUP
Government Maintenance Yard			SUP						SUP	P					
Greenhouses/Nursery						P				P	P		SUP	SUP	
Group Care Facility															
Health Care Facility			P	P	P	P	P	P	P				SUP	SUP	SUP
Health/Fitness Club					P	P	P	P	P				SUP	SUP	SUP
Homeless Shelter		SUP	SUP	SUP	SUP	SUP							SUP	SUP	SUP
Hospitals			SUP										SUP		
Hotels & Motels			P	P	P	P	P	P	P				SUP		SUP
Junkyard/Outside Storage of Junked or Wrecked Motor Vehicles											SUP				
Kennels, Boarding										SUP	SUP				
Library	P		P	P	P	P			P				SUP	SUP	SUP
Manufacturing Complex							P	P	P	P	P				
Meeting Facility	P		P	P	P	P	P	P	P				SUP	SUP	SUP
Microbrewery		SUP		P	P	P	P	P	P	P	P				
Mobile Home Park															
Motor Vehicle Fuel Station					SUP	P		SUP	SUP				SUP		SUP
Motor Vehicle Maintenance, & Service					SUP	P							SUP	SUP	SUP
Motor Vehicle Repair					SUP	P				P	P				
Motor Vehicle Sales & Rentals					SUP	P							SUP		
Office operations			P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Offices and professional services	P	P	P	P	P	P	P	P	P				SUP	SUP	SUP

5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS

P = Permitted by Right	SUP = Permitted with a Special Use Permit						PA = Permitted as accessory use					* = Refer to 5.2.47			
	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
Order Fulfillment Center						P	P	P	P	P	P		SUP	SUP	
Outlet sales							P		P	P	P		SUP		
Park, Athletic or Community		SUP	P	P	P	P			P				SUP		SUP
Park, Cultural or Natural		P	P	P	P	P							SUP		SUP
Park, Neighborhood													SUP		SUP
Park and Ride Facility	P	P	P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Parking as Principal Use, Surface or Structure			P	P	P	P		P	P				SUP		SUP
Performance Facility			P	P	P	P	P	P	P				SUP	SUP	SUP
Personal service business	P	P	P	P	P	P	P	P	P				SUP	SUP	SUP
Petroleum Products (storage & distribution)											SUP				
Pharmacy, Convenience					SUP	P							SUP	SUP	
Pharmacy, Retail		P		P	P	P	P						SUP	SUP	
Postal and Parcel Delivery Services			P	P	P	P	P		P	P					
Processing Facility								SUP	SUP		SUP				
Public Safety Services	P	P	P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Public Utilities	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	SUP
Recreational Facilities		SUP	P		P	P	P		P				SUP	SUP	SUP
Research Facility			P		P	P	P	P	P	P	P		SUP		
Research Facility, Intense								SUP	SUP	P	P		SUP		
Restaurant		P		P	P	P	P	P	P				SUP	SUP	SUP
Restaurant, Convenience					SUP	P			P				SUP	SUP	
Retail sales/rentals of goods with outside display/storage of merchandise					P	P	P			P			SUP	SUP	SUP
Retail sales/rentals of goods within wholly enclosed structure		P		P	P	P	P		P				SUP	SUP	SUP

5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS

P = Permitted by Right	SUP = Permitted with a Special Use Permit						PA = Permitted as accessory use					* = Refer to 5.2.47			
	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
School: Art & Music			P	P	P	P	P	P	P				SUP	SUP	SUP
School: Dance, Martial Arts			P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
School: Elementary, Middle & Secondary			SUP				SUP	SUP	P*				SUP		SUP
School: Higher Education			SUP				SUP								
School: Vocational								P	P	P	P		SUP		
Storage & Warehousing: Inside building, excluding explosives & hazardous wastes					P	P	P	P	P	P	P		SUP		
Storage & Warehousing: Outside								P	P	P	P				
Storage & Warehousing: Self										P	P				
Telecommunication Tower	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	SUP
Temporary Family Health Care Structure															
Transit Passenger Terminal	P					SUP		SUP					SUP		SUP
Transmission Lines	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	SUP
Veterinarian/Animal Hospital		P			P	P		P	P				SUP	SUP	SUP
Wholesale sales, indoor						P	P	P	P	P	P		SUP		
Wholesale sales, with outdoor storage/display										P	P				

5.2 USE-SPECIFIC STANDARDS

5.2.1 ADULT USE

Adult uses as defined in North Carolina General Statutes, Section 14-202.10 are recognized as having certain serious objectionable operational characteristics and a deleterious effect on adjacent areas. Special regulation of these uses is necessary to ensure that their adverse effects do not contribute to degradation or decline of surrounding areas. The primary intent of the following standards is to prevent negative impacts on residential areas and particular uses.

5.2.1.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of adult uses:

- 5.2.1.1.a** No building to be occupied as an adult use shall be established within five hundred (500) feet of a residentially zoned lot line. No adult use shall be located less than one thousand (1,000) feet from any church, school, park, playground, synagogue, convent, library, or other areas where large numbers of minors regularly travel or congregate.
- 5.2.1.1.b** All windows, doors, openings, entries, etc. for all adult uses shall be located, covered, buffered, or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street or way.
- 5.2.1.1.c** No adult use shall be located within a one thousand (1,000) foot radius of another adult use.
- 5.2.1.1.d** The proposed methods of soundproofing the buildings must be sufficient to reduce noise from the interior of the building. The noise level at the property line shall not exceed forty-five (45) decibels.
- 5.2.1.1.e** There must be sufficient number of employees to maintain the safe and orderly operation of the establishment.
- 5.2.1.1.f** Live entertainment and amplified music shall cease no later than 12:00 a.m. (midnight)

5.2.2 BANK AND FINANCIAL INSTITUTIONS

5.2.2.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.2.1.a** The site plan shows that there is adequate vehicular and pedestrian circulation space around the building in addition to the required stacking spaces (for purposes of this section a “stacking space” equals one car length, or approximately twenty feet). The required number of stacking spaces shown must be usable and must be located outside of any public road right-of-way. In

the case of uses not specified in this Ordinance, the permit issuing authority shall determine whether the number of proposed stacking spaces is adequate for intended use.

- 5.2.2.1.b** The site plan shows that the circulation patterns is a one-way system that provides a separation between the drive-up window customers and other customers, and that there is adequate room for individuals to park and maneuver safely in the parking lot. Sites with a drive-up window may not have direct driveway connections to streets classified as arterial.
- 5.2.2.1.c** Drive-up windows shall not be located on the primary or pedestrian-oriented facades of buildings.
- 5.2.2.1.d** Stacking spaces for drive-up areas shall not inhibit traffic flow on the site.
- 5.2.2.1.e** Financial institutions with drive-up windows shall be limited to three (3) drive-up bays per building.
- 5.2.2.1.f** Drive-up banks are required to have six (6) stacking spaces per window.

5.2.3 BAR

5.2.3.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.3.1.a** When located in the adaptive re-use district, new tenants in this category shall install an opaque screen which is 80% solid (or greater) at least 6 feet tall to separate any outdoor seating area from any existing outdoor play area associated with an existing school or child day care.
- 5.2.3.1.b** Outdoor performances must take place on the applicant's property and in compliance with Chapter 5, Article 1, *Noise*, of the Hillsborough Town Code.

5.2.4 BED AND BREAKFAST HOME

5.2.4.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.4.1.a** Each unit within a bed and breakfast establishment shall have direct access to a hall or exterior door.
- 5.2.4.1.b** The applicant shall provide evidence that the Fire Marshal has reviewed and approved the fire protection plan.
- 5.2.4.1.c** If a state, county or city license or permit is required to operate such a facility, the standards necessary to qualify for such a permit have been met; no Zoning Permit or Certificate of Occupancy will be issued until the Town receives proof that all State, county, and/or other local permits have been approved.

5.2.5 CEMETERY

5.2.5.1 Standards of Evaluation

The following specific standards shall be used in deciding upon an application for approval of this use:

- 5.2.5.1.a** Proof that the requirements of the North Carolina General Statutes Chapter 65 the standards of the North Carolina Cemetery Commission shall be met, to the extent that they apply to the applicant entity.
- 5.2.5.1.b** There shall be adequate space within the site for the parking and maneuvering of the funeral cortege at each proposed burial site.
- 5.2.5.1.c** The proposed landscaping shall provide visual obstruction from adjacent property through new planting or existing vegetation. At a minimum, this visual obstruction shall be equal to a Type A buffer.
- 5.2.5.1.d** The proposed landscaping shall show the balance between providing an aesthetically pleasing arrangement of plots, amenities, driveways and landscaping and providing a facility that is safe for visitation and long term protection of grave markers.
- 5.2.5.1.e** The minimum lot size for any cemetery not co-locating on a parcel occupied by the place of worship of the applicant faith-based organization shall meet the minimum lot size for the zoning district in which it is located.
- 5.2.5.1.f** The site for a proposed cemetery for a faith-based organization shall be located within one-half mile of the site the applicant organization uses as its place of worship.
- 5.2.5.1.g** The site shall have frontage on Town or State maintained road.
- 5.2.5.1.h** All interior vehicular access and maneuvering space shall be improved with pervious, semi-pervious or impervious surfaces which can be maintained to provide safe and consistent passage.
- 5.2.5.1.i** No interments shall take place within thirty (30) feet of any lot line.
- 5.2.5.1.j** The applicant has provided information sufficient to the permit issuing authority regarding guarantee of perpetual maintenance and the length of time the proposed cemetery will have lots available for sale.

5.2.6 CHILD DAY CARE

5.2.6.1 Standards of Evaluation

Child day care centers, including pre-schools, shall be licensed as a childcare center by the State, shall comply with all state regulations for childcare centers, and must satisfy the following standards:

- 5.2.6.1.a** Proof that a license from the State of North Carolina has been applied for. A copy of the approved license shall be provided to the Planning Department within 30 days of the Certificate of Occupancy for any approved Child Day Care

requiring a license. No unconditional Certificate of Occupancy may be issued until a copy of all required state licenses have been issued.

- 5.2.6.1.b** If not located in a stand-alone building, a child day care center shall be located on the first floor of a principal structure, and must be segregated and secured (including the restrooms) from the remaining portion of the building in which it is located.
- 5.2.6.1.c** Child day care centers shall not be established within one thousand (1,000) feet of any adult uses nor within five hundred (500) feet of any bar.
- 5.2.6.1.d** Outdoor recreation areas associated with the facility must meet the State's requirement for the licensing level being sought for the facility, and must satisfy the fencing and buffering requirements with particular attention paid to protecting the privacy of adjacent property owners and to maintaining the character of a residential neighborhood.
- 5.2.6.1.e** All required parking spaces shall be located off the street right-of-way. In addition, safe and adequate access shall be provided from the parking spaces to the building and to the street.
- 5.2.6.1.f** When located in the Adaptive Re-Use District, new tenants in this category shall install an opaque screen which is 80% solid (or greater) at least 6 feet tall to separate any outdoor play area from any existing outdoor seating area associated with a restaurant or bar.
- 5.2.6.1.g** When located in the Adaptive Re-Use District, new tenants in this category may not designate child loading/unloading areas where there is overlapping driveway use with any industrial use in existence at the time of the day care's application.

5.2.7 CHURCH OR PLACE OF WORSHIP

5.2.7.1 Standards of Evaluation

The following specific standards shall be used in deciding upon an application for approval of uses in this category:

- 5.2.7.1.a** The written description of the operation indicates compliance with the stated, applied for use and that use is permitted by right of with a Special use permit within the zoning district.
- 5.2.7.1.b** The lot area is of sufficient size that all required parking, access, yard areas, and screens are provided without any variance to the stated standards of this Ordinance. A combination of on-street, on-site, and shared parking may be allowed with the approval of the permit issuing authority.
- 5.2.7.1.c** Structures, driveways, and other significant physical features within 100 feet of the development area of this project are protected from adverse impacts as required by this ordinance.

5.2.8 DWELLING, ACCESSORY

The following sections are provided to create opportunities for a diversity of housing stock within town. A dwelling unit must contain sleeping, cooking, and bathroom facilities. Guest quarters or suites that do not contain all three types of facilities are not dwelling units and are not reviewed in this section.

5.2.8.1 Accessory dwelling units in freestanding structures

New or existing accessory buildings may be used as dwelling units in addition to the principal dwelling unit in the R-10, R-15, and R-20 districts, subject to the following conditions:

- 5.2.8.1.a** The lot is developed, or proposed to be developed, with a single-family dwelling and customary accessory outbuildings.
- 5.2.8.1.b** The lot has direct access to a public street.
- 5.2.8.1.c** One (1) accessory dwelling unit is permitted per lot, whether within the principal dwelling or as a freestanding structure.
- 5.2.8.1.d** The structure containing the accessory dwelling must meet the applicable primary building setbacks established in Table 6.3.1, *Dimensional Requirements – residential* OR Section 7.5.3, *Non-conforming lot setback requirements*. The existing, primary dwelling may be non-conforming in regard to building setbacks required in the zoning district. The setback provision in Section 9.1.5.2.c of this ordinance is available for an accessory building containing a dwelling unit.
- 5.2.8.1.e** An accessory dwelling unit in a freestanding structure shall be located to the side or rear of the primary dwelling and behind the primary dwelling's front façade.
- 5.2.8.1.f** All structures containing dwellings are connected to municipal water and sewer service.
- 5.2.8.1.g** The accessory dwelling unit shall not exceed fifty (50) percent of the gross floor area of the principal dwelling unit or 1,000 square feet in gross floor area, whichever is greater. In no case shall the accessory dwelling unit exceed the gross floor area and/or height of the principal dwelling unit.
- 5.2.8.1.h** The accessory unit is constructed to the state building code for one- and two-family dwellings (i.e., is not a manufactured home).
- 5.2.8.1.i** There is sufficient off-street parking on the parcel to accommodate two spaces for the principal dwelling and one space per bedroom in the accessory unit, which may include garage spaces.
- 5.2.8.1.j** The application materials indicate storage locations for solid waste and recycling containers for both dwellings consistent with Town Code requirements.
- 5.2.8.1.k** Units that existed on August 12, 1996 that do not meet one or more provisions of this section may continue as legal non-conforming uses.

5.2.8.2 Accessory dwelling units within a principal single-family dwelling

Accessory dwelling units may be located within a principal single-family dwelling in

any zoning district, subject to the following conditions:

- 5.2.8.2.a** The lot is developed, or proposed to be developed, with a single-family dwelling and customary accessory outbuildings.
- 5.2.8.2.b** One (1) accessory dwelling unit is permitted per lot, whether within the principal dwelling or as a freestanding structure.
- 5.2.8.2.c** Both dwellings are connected to municipal water and sewer service.
- 5.2.8.2.d** The accessory dwelling unit shall not exceed fifty (50) percent of the gross floor area of the principal dwelling unit or 1,000 square feet in gross floor area, whichever is greater. In no case shall the accessory dwelling unit exceed the gross floor area of the principal dwelling unit.
- 5.2.8.2.e** The accessory dwelling unit must have its own exterior access. Any interior access to the principal dwelling must be lockable from both dwellings.
- 5.2.8.2.f** There is sufficient off-street parking on the parcel to accommodate two spaces for the principal dwelling and one space per bedroom in the accessory unit, which may include garage spaces.
- 5.2.8.2.g** The application materials indicated storage locations for solid waste and recycling containers for both dwellings consistent with Town Code requirements.
- 5.2.8.2.h** Units that existed on August 12, 1996 that do not meet one or more provisions of this section may continue as legal non-conforming uses.

5.2.8.3 Temporary Family Health Care Structure

A structure meeting the definition of “temporary family health care structure,” as defined in Section 9.2, *Definitions*, of this Ordinance, may be used as a dwelling unit in addition to a principal dwelling, subject to the following conditions:

- 5.2.8.3.a** The Permit applicant, in addition to other items required for the issuance of a Zoning Compliance Permit for any other structure or building, shall provide the following information as part of their application:
 - (a) written certification from a physician licensed to practice in the State of North Carolina that the person being cared for is mentally or physically impaired, and
 - (b) a floor plan of the proposed temporary family health care structure.
- 5.2.8.3.b** Only one temporary family health care structure will be permitted per lot.
- 5.2.8.3.c** The temporary family health care structure may, or may not, be placed on a permanent foundation.
- 5.2.8.3.d** The temporary family health care structure must be occupied by a caregiver in providing care for a mentally or physically impaired person as defined in Section 9.2, *Definitions*, of this Ordinance.
- 5.2.8.3.e** The temporary family health care structure must be located on property owned or occupied by either:
 - (a) the caregiver (see Section 9.2, *Definitions*) as the caregiver's residence, or
 - (b) the named legal guardian of the mentally or physically impaired person

being cared for.

- 5.2.8.3.f** The temporary family health care structure must meet the building setbacks required for the principal dwelling unit.
- 5.2.8.3.g** The temporary family health care structure must be connected to any water, sewer and electric utilities serving the property. In areas not served by water and sewer, it must be connected to a private well and septic tank.
- 5.2.8.3.h** The temporary family health care structure must comply with all applicable State laws, local ordinances and other requirements as if the temporary family health care structure were permanent real property, including all applicable provisions of the State Building Code and North Carolina General Statutes, Section 143-139.1(b).
- 5.2.8.3.i** No signage advertising or otherwise promoting the existence of the temporary family health care structure will be permitted either on the exterior of the temporary family health care structure or elsewhere on the property where it is located.
- 5.2.8.3.j** The applicant for a Zoning Compliance Permit for a temporary family health care structure must provide evidence of continued compliance with this Section on an annual basis for as long as the temporary family health care structure remains on the property. The required evidence will consist of:
 - (a) a confirmation statement from the Permit holder verifying that there is still need for the temporary family health care structure, and
 - (b) an inspection of the temporary family health care facility by the Town at a reasonable time that is convenient to the caregiver, and
 - (c) a doctor's certification that the person being cared for still has need for a caregiver.
- 5.2.8.3.k** The temporary family health care structure must be removed from the lot within 60 days of the date the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance as provided for in this Section. If the temporary family 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 60 days of its removal, as applicable.
- 5.2.8.3.l** The Permit for a temporary family health care structure may be revoked if the Permit holder violates any provision of this Section or North Carolina General Statutes, Section 160A-202.

5.2.9 DWELLING, ATTACHED

5.2.9.1 Categories of Attached Dwellings

This Ordinance hereby establishes the following attached dwelling use types:

- 5.2.9.1.a** Attached Dwellings Up to 4 Units;
- 5.2.9.1.b** Attached Dwellings 5-19 Units; and

5.2.9.1.c Attached Dwellings 20+ Units.

The review and approval process for these uses are specified in tables 5.1.7, *Use Table for Residential Districts*, and 5.1.8, *Use table for Non-Residential districts*, for each zoning district.

5.2.9.2 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.9.2.a** The number of dwelling units per acre proposed is equal to or less than the maximum number of units per acre permitted in the district in which they are proposed, when calculated according to the rounding information provided in Section 9.
- 5.2.9.2.b** Site plans show compliance with the dimensional requirements for the applicable Zoning District in which the attached dwelling unit is being developed.
- 5.2.9.2.c** For developments consisting of 5 or more dwelling units, vehicular ingress and egress and exits for the development are directly off a public road(s) which is either a collector or arterial street and meet the driveway standards in Section 6.9, *Driveway Connections*. Up to 4 dwelling units are permissible on any public street.
- 5.2.9.2.d** The interior roads and parking areas shall meet the required specifications included in Section 6.21, *Streets*.
- 5.2.9.2.e** The project is served or is proposed to be served by public water and sewer systems. The proposed distribution systems have been sized to meet the demands of the project, including fire protection.
- 5.2.9.2.f** The Fire Marshal has reviewed and approved in writing the fire protection plan, including the location of fire hydrants.
- 5.2.9.2.g** The utility plan has been reviewed and approved by the Utilities Director and the State has approved the extension of the Town's systems. All utilities, including electrical, telephone, and cable television, are to be installed underground.
- 5.2.9.2.h** The lighting plan meets or exceeds the specification of this Ordinance.
- 5.2.9.2.i** The grading, storm drainage, and soil erosion and sedimentation control plans have been reviewed and approved by the Orange County Soil Erosion and Sedimentation Control Officer or consulting Engineer, as applicable.
- 5.2.9.2.j** The pedestrian circulation minimizes the conflicts between pedestrians and motor vehicles, and it provides convenient access to all common areas and facilities and to public streets.
- 5.2.9.2.k** The proposed trash container and recycling system meets the requirements of this Ordinance and the Orange County Solid Waste Management Ordinance.
- 5.2.9.2.l** The site plan shows the phasing, if any, of the development, including any phases

to be developed later. If a development is to be built in phases, and complete plans for the succeeding phases are not available, then the requirements in this section shall apply to each phase as if it were a separate and discrete development. Further, when a development is built in phases and includes improvements that are designed to relate to, benefit, or be used by the entire development, (such as swimming pools or tennis courts), the developer shall submit a schedule for completion of these improvements. All common implements necessary to comply with the requirements of this Ordinance for each phase must be completed before occupancy of a subsequent phase may commence.

- 5.2.9.2.m** An improvement must be scheduled and completed before the final phase of the development is begun. The permit-issuing authority may, in special cases (exclusive of financial hardship) authorize the applicant to commence the intended use of the property or to occupy any building before these improvements are installed provided that a performance bond or other security satisfactory as to amount certified by the applicant's engineer to be 125% of the estimated cost to complete the work, and in a form to the Town Attorney, is furnished.

5.2.9.3 Recreational Standards for attached dwellings

For recreational standards, see Section 6.15, *Recreational Sites*.

5.2.9.4 Open Space Standards for attached dwellings

For open space standards, see Section 6.12, *Open Space*.

5.2.9.5 Zoning District Specific Standards for attached dwellings

5.2.9.5.a Central Commercial (CC) District

- (a) It is the intent of these provisions to allow attached dwelling developments on lots zoned Central Commercial in an effort to mix land uses within the Central Commercial zone to the extent that it does not detract from the function of the zone as a commercial center. It is not the intent of this section to impede the location of retail establishments in the CC district.
- (b) Any lot within the CC zone may contain a single dwelling unit along with a non- residential enterprise or as an individual use.
- (c) An existing building in the CC zone may renovate existing gross floor area into attached dwellings when:
 - i. The ground floor area is used for non-residential uses and access to the dwelling(s).
 - ii. The conversion does not require an addition of enclosed building area other than creating access from the ground level, if necessary.
 - iii. Applicant provides construction drawings verifying there is adequate water, sewer, and solid waste collection service to the property to comply with paragraphs e, f, g, h, and k in Section 5.2.10.2 above and all other applicable town and building codes. The requirements in Section

5.2.10.2a, b, c, d, i, j, l, and m, Section 5.2.10.3, and Section 5.2.10.4 do not apply to these units.

- (d) New buildings in the CC zone may be constructed for attached dwellings when:
 - i. The ground floor area of all buildings(s) is used for non-residential uses and access to the dwelling(s).
 - ii. Off-street parking is provided at a rate of 1.2 spaces per dwelling unit.
 - iii. Applicant provides a site plan and construction drawings verifying compliance with the relevant requirements of Section 5.2.10.2 and all other applicable town and building codes.
 - iv. The requirements in Section 5.2.10.3 and Section 5.2.10.4 apply to any site containing twenty or more dwelling units
 - v. The requirements of Section 6.10, Landscaping (Parking Lot), apply to parking and vehicle accommodation areas proposed to be constructed or modified as part of the project.

5.2.9.5.b *General Industrial (GI) District*

An applicant may seek approval of a Special Use Permit to convert an existing or former industrial building to an attached dwelling development if the building façade is maintained or designed to maintain sufficient detailing and characteristics as to retain its industrial character.

In addition to all other required submittals for Special Use Permits set forth in Section 3.8, *Special Use Permits*, applicants seeking a Special Use Permit under this subparagraph must include with their application:

- (a) Elevations showing the existing building facade and the proposed building façade.
- (b) Application materials shall indicate compliance with the relevant requirements for accessory dwelling developments in this Ordinance.
- (c) An applicant may include retail, service, and/or office uses in the permit request which encompass up to thirty (30) percent of the floor area of the project.
- (d) The Board of Commissioners shall carefully consider the potential impacts on proposed residences of any existing industrial uses in the immediate vicinity and may deny an SUP for attached dwelling uses under this section if they deem the development incompatible with the existing industrial use. In addition, the Board of Commissioners must consider the potential impact of any other use permitted as of right in the district on the proposed residential use before it may find the proposed use to be compatible with the district. The Board of Commissioners may deny the SUP for attached dwelling use if the Board determines that such use, if developed as proposed at the proposed location, would not be compatible with any other use(s) permitted in the district.

5.2.10 DWELLING, MOBILE HOME**5.2.10.1 Intent**

It is the intent of this section to address the specific criteria which must be met to place a mobile home or modular home within the zoning jurisdiction of the Town of Hillsborough.

5.2.10.2 Classes of Mobile or Manufactured Homes

This Ordinance recognizes three (3) classes of mobile homes: Class A, Class B, and Class C. Homes which do not meet the criteria set forth shall not be located within the Town's jurisdiction.

5.2.10.2.a Dwelling, Mobile Home, Class A

Before issuing a Zoning Compliance Permit for a Class A mobile home, the Planning Director shall certify the following:

- (a) The pitch of the home's roof shall have a minimum vertical rise of two (2) feet for each twelve (12) feet of horizontal run.
- (b) The exterior siding shall consist of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- (c) Each home shall either have a brick curtain wall or have ABS plastic color skirting with interlocking edges (key locked) installed around the perimeter of the home before a Certificate of Occupancy is issued.
- (d) The home shall have a length not exceeding three (3) times its width.
- (e) All transportation lights and towing apparatus shall be removed or covered before a Certificate of Occupancy is issued.
- (f) Applicant shall provide documentation showing that the proposed unit meets the requirements for a Class A designation. This information shall be retained by the Planning Director.

5.2.10.2.b Dwelling, Mobile Home, Class B

Before issuing a Zoning Compliance Permit for a Class B mobile home, the Planning Director shall certify that in addition to satisfying the requirements of Section 5.2.12.2a above, the home meets the following standards:

- (a) All transportation lights and towing apparatus shall be removed or covered before a Certificate of Occupancy is issued.
- (b) A legal non-conforming Class B mobile home may be replaced with a similar or higher class mobile home provided the replacement is permitted within 180 days of the removal of the existing Class B mobile home. The replacement mobile home may not increase any dimensional non-conformity enjoyed by the existing mobile home.

5.2.10.2.c Dwelling, Mobile Home, Class C

Before issuing a Zoning Compliance Permit for a Class C mobile home, the

Planning Director shall certify the following:

- (a) Continuous skirting, unpierced except for required ventilation and access, shall be installed under all sides of the home. The materials used in this skirting shall be all-season, all-weather building products, including, but not limited to, vinyl, fiberglass, Masonite or treated lumber. This shall be installed before a Certificate of Occupancy is issued.
- (b) In no case shall the degree of reflectivity of exterior finishes, including skirting, exceed that of gloss white paint.
- (c) All towing apparatus shall be covered by the skirting so as not to be visible from any direction.
- (d) A legal non-conforming Class C mobile home may be replaced with a similar or higher class mobile home provided the replacement is permitted within 180 days of the removal of the existing Class C mobile home. The replacement mobile home may not increase any dimensional non-conformity enjoyed by the existing mobile home.

5.2.11 ELECTRONIC GAMING

5.2.11.1 Standards for Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.11.1.a** Electronic Gaming Operations are allowed as an accessory use with a Zoning Compliance Permit only when co-located with the following primary uses: restaurant, Laundromat, bar, or convenience store.
- 5.2.11.1.b** Any Electronic Gaming Operation must provide a written description of their good faith efforts to prevent minors from using the gaming terminals as part of their application materials. Efforts may include but are not limited to business operation methods, physical separation of terminals from other parts of the business, and the like.
- 5.2.11.1.c** To qualify as an accessory use within a primary use listed above, the Electronic Gaming Operation may not contain more than three (3) computer terminals or individual station and be operated in combination with a primary use listed above. Any operation with four (4) or more computer terminals must seek a Special Use Permit.
- 5.2.11.1.d** No Electronic Gaming Operation with four (4) or more computer terminals shall be established within:
 - (a) five hundred (500) feet of a residentially zoned lot line or lot line of a parcel in residential use; or
 - (b) one thousand (1,000) feet of any place of worship, school, park, playground, convent, library, or any areas where large numbers of minors regularly travel or congregate; or
 - (c) a one thousand (1,000) foot radius of another Electronic Gaming Operation (special use or accessory use).

- 5.2.11.1.e** For the purpose of this section, “computer terminal” and “individual station” shall be taken to mean a seat or station for one individual to play or interact with the game. Accessory use operations may only have 3 players at one time. Any circumstance with 4 or more players requires a Special Use Permit.

5.2.12 EVENT CENTER

5.2.12.1 Standards for Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.12.1.a** If live or recorded music is allowed at events, the venue will have to comply with the standards outlined in Town Code of Ordinances Chapter 5, Article I- Noise, which regulates noise levels at various times of day.
- 5.2.12.1.b** The proposed methods of soundproofing the buildings must be sufficient to reduce noise from the interior of the building.
- 5.2.12.1.c** Outdoor areas planned to be used in connection with the event center shall be located and buffered in such a manner as to protect neighboring uses from light, noise, and loss of privacy.
- 5.2.12.1.d** See Section 3.2 for additional requirements applicable to all review processes.

5.2.13 EXTENDED CARE FACILITY

5.2.13.1 Standards for Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.13.1.a** All proposed structures shall appear residential in character.
- 5.2.13.1.b** The standards for building setbacks, landscaping, buffering, stormwater control, impervious surface limits, signage, parking, and lighting, for the Office/Institutional District shall apply regardless of the zoning classification of the site.
- 5.2.13.1.c** At least (10) percent of the gross parcel area shall be maintained as outdoor open space or park space. Areas dedicated to required buffers, storm drainage or detention shall not be considered open or park space.

5.2.14 FAMILY CHILD CARE HOME

5.2.14.1 Standards of Evaluation

All family child care homes shall be licensed as required by the state and shall meet all applicable state requirements.

- 5.2.14.1.a** The principal person or persons operating the family child care home must reside in the dwelling on the premises.
- 5.2.14.1.b** The family child care home shall 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.

- 5.2.14.1.c** Notwithstanding any other limitation established by this Ordinance, a family carehome may have one, unlighted freestanding sign not to exceed 8 square feet in area or 5 feet in height, otherwise in compliance with Section 6.18, *Signage*.

5.2.15 FENCES AND WALLS

5.2.15.1 Standards of Evaluation

- 5.2.15.1.a** Fences which have a "friendly" (i.e., aesthetically pleasing) and "unfriendly" (i.e., aesthetically less pleasing) sides shall be constructed so the "friendly" side faces outward toward neighboring properties. The "unfriendly" side of a fence is that with the rails connecting pickets or posts or other support structure.
- 5.2.15.1.b** Fences and walls do not have to meet any setback standard, but must be located wholly on the applicant's property and outside of a public right of way, or utility, access or drainage easement unless an encroachment agreement or other similar written authorization is provided.
- 5.2.15.1.c** On any parcel containing a detached single-family dwelling, fences and walls shall be limited to 8 feet in height. Within the Historic District, a height of 6 feet or less may be required during the Certificate of Appropriateness review process.
- 5.2.15.1.d** Fences and walls erected to meet requirements in Section 6 for either screening or buffering must be of wood, stone, or masonry, unless the permit issuing authority specifically allows the use of alternate materials.
- 5.2.15.1.e** Fences and walls are required to secure Certificate of Appropriateness if located in the Historic District or at a local landmark before construction.
- 5.2.15.1.f** Fences and walls are required to meet all of the provision of this subsection and to secure a Zoning Compliance Permit before construction unless the proposed fence or wall meets one of the following criteria:
- (a) The fence or wall is less than 30 inches tall, or
 - (b) The fence or wall encloses an area and is wholly located within the parcel's building envelop (does not encroach in any primary building setback), or
 - (c) The fence or wall does not enclose an area; is less than 50% of the length of any property line it runs parallel to; is less than 6 feet tall; and is intended to screen a view, define a boundary, or provide support to landscape material.

5.2.15.2 Special Requirements and Considerations

The accumulation of materials, whether usable or appearing to be scrap materials, scrap tires, or solid waste as defined in the Section 11 of Hillsborough Town Code, assembled on a property to create a barrier or define a property line will not be considered a fence or wall for zoning purposes. The Town may treat such accumulations as appropriate under Section 11 of the Town Code.

5.2.16 FLEX SPACE**5.2.16.1 Standards of Evaluation**

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.16.1.a** When located in the adaptive re-use district, new tenants in this category may not introduce tractor trailer traffic into or through a designated child/student loading or unloading area for any school or child day care in existence at the time of the flex space use application.

5.2.17 GROUP CARE FACILITY**5.2.17.1 Standards of Evaluation**

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.17.1.a** Operators shall have licensing permit or letter stating that such licensing permit will be issued from the Orange County Department of Social Services, Adult Home Specialist or such other County, state and/or federal agency as may have licensing jurisdiction over the operator.
- 5.2.17.1.b** The lot area shall conform to the minimum required for the zoning district and be sufficient to contain all required components.
- 5.2.17.1.c** The structure proposed shall have the appearance of a residential building, and any proposed structural alterations shall be of such a nature as to preserve the residential character of the building. The proposed changes or improvements of the property shall be in keeping with the residential nature of the area.
- 5.2.17.1.d** Parking areas are to be located to the side or rear of the building, shall meet the parking lot landscaping requirements in Section 6.10, *Landscaping*, and shall provide any screening required by Section 6.16, *Screening*, for neighboring uses as determined by the permit issuing authority.
- 5.2.17.1.e** Improved recreation areas shall provide screening to neighboring uses as required by Section 6.16, *Screening*, and as determined by the permit issuing authority.
- 5.2.17.1.f** The proposed use shall not be located within five hundred (500) feet of another existing group care facility.

5.2.18 HOME OCCUPATION

- 5.2.18.1** All home occupations shall comply with the following conditions:

- 5.2.18.1.a** A home occupation is the base of operations for the business and the primary function of the business takes place on the residential property for which the permit is issued. For example: an employee who telecommutes to their place of business in RTP is not engaged in a home occupation and does not require a home occupation permit, but the person who owns a computer consulting business and conducts business from their home does. A self-employed business owner who keeps his business records at his home and is contacted at

his home to arrange work but does not do any of the job function at the home does not need a home occupation permit.

- 5.2.18.1.b** A home occupation is located within a dwelling unit or in an accessory building on the same lot or parcel as the dwelling unit. A home occupation involving the growing or raising of an agricultural product may also be allowed so long as the area outside of a structure involved in raising the product sold meets the area requirement below.
- 5.2.18.1.c** The area of a home occupation shall not account for more than 1,000 square feet of total area on a parcel (dwelling, outbuilding, and/or area involved in raising an agricultural product), except when the home occupation is a short-term rental, in which case the area of the home occupation shall not exceed the gross floor area of the short-term rental unit and any off-street parking required under this section.
- 5.2.18.1.d** The principal person or persons providing the business or service must reside in the dwelling on the premises.
- 5.2.18.1.e** The operator of the home occupation may not employ more than one (1) non-resident person on the premises.
- 5.2.18.1.f** The home occupation shall not cause or result in any change in the external appearance of the existing dwelling and structures on the property.
- 5.2.18.1.g** All vehicles used in connection with the home occupation shall be of a size and/or type customary for residential use, and shall be located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the surrounding area. No more than two (2) business-related vehicles may be parked at the site of the home occupation. In no instance shall any vehicle with a gross vehicle weight exceeding 5,000 pounds be parked, stored, or otherwise maintained at the site of a home occupation.
- 5.2.18.1.h** Home occupations shall not result in regular and on-going business-related vehicular traffic to the home where located.
- 5.2.18.1.i** There shall be sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself.
- 5.2.18.1.j** There shall be no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building.
- 5.2.18.1.k** The site of the home occupation shall not contain any outdoor display or storage of goods, equipment, or services associated with the home occupation.

5.2.18.1.l The home occupation shall not create adverse impacts on health, safety, or comfort of customers or neighboring residents which can be detected by the normal senses off the premises. Such impacts shall include but not be limited to fire or explosive hazards; interference with electronic communication; loud, raucous or disturbing noise; dust; odors; fumes; glare; or vibration.

5.2.18.1.m The home occupation shall not create or exhibit an increase in noise, traffic or parking demands markedly beyond that normally associated with a residential use.

5.2.18.2 Home occupations shall obtain a Zoning Compliance Permit in accordance with Section 3.14, *Zoning Compliance Permit*.

5.2.18.3 The following uses are not permitted as home occupations in residential zoning districts except as a legal non-conforming use:

5.2.18.3.a Boarding of domesticated animals

5.2.18.3.b Dealerships for firearms or motor vehicles

5.2.18.3.c Motor vehicle maintenance, service, or repair

5.2.18.3.d Any use that will routinely generate five or more customers within one hour or more than 10 customers in one day.

5.2.18.3.e Any use that is only permitted with a or Special Use Permit if otherwise located.

5.2.19 HOMELESS SHELTER

5.2.19.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

5.2.19.1.a A shelter shall provide minimum floor space of fifty (50) square feet for each individual sheltered;

5.2.19.1.b No shelter facility shall be located within 1/4 mile of an existing shelter for the homeless, family care home, or group care facility; and

5.2.19.1.c The facility must be contained within a building or group of buildings and operated by a government agency or non-profit organization.

5.2.20 JUNKYARD, VEHICLE

5.2.20.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

5.2.20.1.a All storage areas on the site shall be secured by a fence at least eight (8) feet tall, uninterrupted except for required vehicle access points to prevent unlawful entry.

5.2.20.1.b The landscape plan shows that all storage areas are screened so that a person six feet tall cannot see stored items when standing at ground level on all

adjacent properties and the public right of way within 100 feet of the property line. This screening may be accomplished through any single or combination of methods approved by the permit issuing authority.

5.2.20.1.c No outside work using motorized equipment or mechanical devices shall be allowed between the hours of 7:00 p.m. and 7:00 a.m.

5.2.20.1.d Applicants shall provide noise level documentation for equipment used outdoors on site. The permit issuing authority may require a single solution, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

5.2.20.1.e There shall be no storage of materials closer than fifty (50) feet to a public right-of-way or residentially zoned property, nor closer than thirty (30) feet to non-residentially zoned property.

5.2.21 KENNEL, BOARDING

5.2.21.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

5.2.21.1.a No part of any building, structure, or runway in which animals are housed or exercised shall be closer than one hundred and fifty (150) feet to a property line. The minimum distance from a property line shall be fifty (50) feet if all portions of the facility in which animals are housed are wholly enclosed within a building.

5.2.21.1.b Any kennel or runway which is not wholly enclosed within a building shall be encircled by a security fence at least six (6) feet in height.

5.2.21.1.c The proposed landscaping shall provide visual obstruction equal to a Type B buffer from adjacent property through new planting or existing vegetation.

5.2.21.1.d The facility shall be designed in a manner to minimize visual contact between animals and outside influences. The number of windows and doors shall be kept to a minimum. The facility shall be air conditioned.

5.2.22 MANUFACTURING COMPLEX

5.2.22.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

5.2.22.1.a Any use requiring a state air permit and/or local Significant Industrial User Pretreatment certificate shall provide a copy of the current permit for the operation with the application.

5.2.22.1.b Average daily traffic and anticipated characteristics of vehicular traffic, particularly heavy truck traffic (three or more axels), anticipated to be generated by the use shall be submitted with the application.

5.2.22.1.c Anticipated noise levels at property lines based on similarly situated uses in other locations. Movable equipment on site must be included in the calculation.

5.2.22.1.d No outside work using motorized equipment or mechanical devices shall be allowed between the hours of 7:00 p.m. and 7:00 a.m.

5.2.22.1.e Applicants shall provide noise level documentation for equipment used outdoors on site. The permit issuing authority may require a single solution, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

5.2.22.1.f Outside storage of materials and equipment is permitted if it meets the standards of Section 6.11, *Lighting Requirements*.

5.2.22.1.g The distance to the nearest occupied dwelling unit and residentially zoned parcel shall be submitted.

5.2.22.1.h When located in the Adaptive Re-Use District, new tenants in this category may not introduce tractor trailer traffic into or through a designated child/student loading or unloading area for any school or child day care in existence at the time of the manufacturing use application.

5.2.23 MIXED RESIDENTIAL AS REQUIRED BY THE ASSISTIVE LIVING NEIGHBORHOOD DISTRICT

5.2.23.1 Uses Required

For the purposes of this section, three types or stages of dwelling units are expected. An assistive living neighborhood shall provide a combination of these uses:

5.2.23.1.a Independent living units-units that contain complete cooking, eating, bathing, and sleeping facilities. The unit density area associated with this level (including parking and recreation) shall not exceed 9 independent living units per acre and not more than 50% of the number of units in the development. Independent living units may be detached or attached units.

5.2.23.1.b Limited care units-units that may or may not contain complete independent living facilities but include routine non-medical assistance.

5.2.23.1.c Assisted living units-units that do not contain independent eating or cooking facilities but include routine and regular assistance, and monitoring, both medical and otherwise. These facilities shall have the appropriate license from the State of North Carolina.

5.2.23.2 Support Facilities

In addition to the dwelling unit mix, the following support facilities shall also be included in this district. The residential units must be present for these services to be provided.

5.2.23.1.a Health services facilities, twenty-four-hour skilled nursing care, and emergency services for exclusive use of persons within at least the limited care and assisted living units.

5.2.23.1.b Shared food preparation service, common dining halls, and common spaces for recreation and social use all of which shall be conveniently

located indoors for the exclusive use of all residents and their guests. Together these facilities shall total a minimum area of thirty square feet per constructed limited care and assisted living unit, exclusive of circulation space.

5.2.23.1.c The facilities listed above shall be conveniently located to the assisted living units and shall be available to those units via sheltered walkways.

5.2.23.1.d Outdoor open and park areas of no less than ten percent of the gross land area in the development. The following are not considered open or park space: private drives, off- street parking areas, stormwater control devices and drainageways and any required perimeter buffer area.

5.2.23.1.e Limited services and retail opportunities aimed at providing convenience needs of residents and guests of the limited care and assisted living units.

5.2.23.3 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

5.2.23.3.a The site plan shall clearly delineate the portions of the parcel directly associated with each type of dwelling or lodging unit for the purposes of confirming density.

5.2.23.3.b Buildings in this district shall not exceed 3 stories in height and shall provide elevators in all multi-story buildings.

5.2.23.3.c The site plan shall show a perimeter buffer protecting neighboring uses from the impact of the development or vice versa, depending on the neighboring uses. The expected buffer will vary depending on the adjacent land use and the portion of the site being buffered. Any deviations from the expected buffer shall be clearly noted and explained on the site plan.

5.2.23.3.d The perimeter buffer shall be 50 feet wide where proposed and adjacent uses are of similar densities or intensities and 100 feet where the proposed use is more dense or intense than the adjacent use. The perimeter buffer shall meet the Type B definition in Section 6.5, *Buffers*, unless otherwise authorized by the permit issuing authority.

5.2.23.3.e The pedestrian path system shall provide a connection to any immediately adjacent public park, open space, or facility.

5.2.23.3.f A phasing plan indicating the timing of construction. Approvals to build or occupy certain units may be conditioned on the completion of other components. Conditions of this type shall be clearly indicated in the approval of a Special Use Permit.

5.2.23.3.g The mix of dwelling unit types and services provided offer a variety of services to the elderly population

5.2.23.3.h The mix of dwelling unit types and services provided allow residents to remain in the development through declining health and allow partners to remain in close proximity to one another if their health conditions are different.

5.2.23.3.i The proposed services are properly licensed or registered with the State of North Carolina.

5.2.24 MOBILE HOME PARK/MANUFACTURED HOME PARK

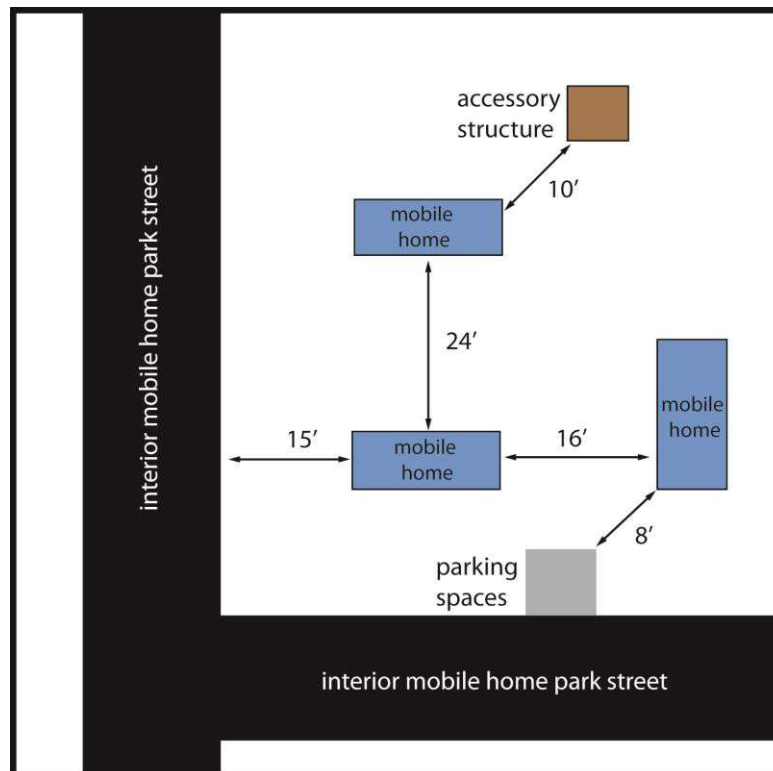
5.2.24.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

5.2.24.1.a The minimum lot area of a new mobile home park shall be five (5) acres exclusive of any public rights-of-way.

5.2.24.1.b The maximum number of units per forty thousand (40,000) square feet of lot area shall be seven (7). The minimum distances between mobile homes, the access road and property lines are as shown.

Figure 5-1: Mobile Home Park Structure Spacing



5.2.24.1.c The owner and developers have submitted a plan to maintain the mobile home park.

5.2.24.1.d The rules and regulations for the park tenants shall address, at a

minimum, the following:

- (a) Accessory storage of goods.
- (b) Outside storage of goods.
- (c) Maintenance of units, skirting, lawns, parking areas, common facilities and recreation areas; and
- (d) Non-functioning motor vehicles.

5.2.24.1.e Off-street parking spaces shall be provided as required in Section 6.13, *Parking, Loading, and Circulation*.

5.2.24.1.f The proposed street names shall not duplicate any other street name in Hillsborough's zoning jurisdiction. All street intersections shall have a road name sign for each intersecting street. The signs shall be made to conform to the existing street name signs erected by the Town.

5.2.24.1.g Each unit in the park shall be numbered in a logical sequence. The unit numbers shall be reflective and placed on the side of the unit facing the road. The park owner shall ensure that new units are numbered and that existing units maintain their numbers.

5.2.24.1.h A school bus stop shall be provided at the entrance of the park. The space shall be a minimum of twelve (12) feet wide by twenty-four (24) feet long. There shall be a weather shelter of not less than fifty (50) square feet. This shelter may be in conjunction with central mail distribution boxes.

5.2.24.1.i Mobile home parks containing spaces or lots for more than eight units shall comply with the active recreational facilities and usable open space requirements applicable to other multi-family developments as described in Section 6.15, *Recreation Sites*, except that the number of recreational points required of a mobile home park shall be based on the number of mobile home spaces.

5.2.24.1.j All electrical, telephone and cable TV service lines shall be installed underground. Only those facilities such as transformers normally not buried may be above ground.

5.2.24.1.k The lighting plan for the mobile home park shall meet the minimum requirements of the Ordinance.

5.2.24.1.l Trash and recycling receptacles shall be provided in adequate numbers and locations to meet the requirements of this Ordinance and the Orange County Solid Waste Management Ordinance.

5.2.24.1.m The pedestrian circulation system shall connect each unit with all common areas in the park, with the off-street parking spaces and with the public road. The pathways shall be a minimum of three (3) feet wide and surfaced with an all-weather material such as asphalt or gravel. The number of intersections of the interior pedestrian pathways and the road system shall be kept to a minimum.

5.2.24.1.n Each unit within the park shall have individual connections to the public water and sewer systems.

5.2.24.1.o The water and sewer line extension plans have been approved by the State and the Town.

5.2.24.1.p Each mobile home unit shall be skirted before a Certificate of Occupancy will be issued.

5.2.24.1.q The landscape plan meets the requirements for a Type B buffer around the perimeter of the park.

5.2.24.1.r The entrances and exits for the development are directly off a paved public road(s) which is either a collector or arterial street, and meet the driveway standards in Section 6.9, *Driveway Connections*.

5.2.24.2 Existing Mobile Home Parks

After the adoption of this Ordinance, existing mobile home parks may continue to operate under existing Conditional Use Permits, variances or other approvals granted under previous development regulations. No expansion of the number of units in an existing park is allowed unless the whole park meets the requirements of this Ordinance.

5.2.25 MOTOR VEHICLE FUEL STATION

5.2.25.1 Standards of Evaluation

The following specific standards shall be used to evaluate application for the approval of this use:

5.2.25.1.a The proposed hours of operation shall be consistent with the predominant uses in the area.

5.2.25.1.b Subject to the limitation established in Section 5.2.27.1.d, below, lots with frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.

5.2.25.1.c Site plan shall show anticipated traffic pattern for vehicles entering, exiting and on the site, including pump islands, stacking space, additional parking spaces, and sidewalks and other pedestrian areas, with emphasis on vehicular and pedestrian safety;

5.2.25.1.d Sites shall not have direct driveway connections to streets classified as arterial or collector.

5.2.25.1.e Changeable message signs (i) will be permitted to display the price of fuel only and (ii) may not exceed fifty (50) percent of the sign area for the use.

5.2.25.1.f Gas station canopies shall be designed to be an integral part of the station architecture, and canopy lighting shall comply with the lighting requirements of

Section 6.11, *Lighting*.

5.2.25.1.g Gas station pumps may be placed at the rear of the lot when the use is combined with a convenience store, and the convenience store is located near the main street to shield the utilitarian pump canopy and highlight the building

5.2.25.1.h Vehicle Accommodation/Pump Island

- (a) Within General Commercial (GC) and High Intensity Commercial (HIC) districts, motor vehicle stations may accommodate a maximum of ten (10) vehicles at one time.
- (b) In all other districts where the use is permitted, a maximum of eight (8) vehicles may be served at one time.

5.2.26 MOTOR VEHICLE MAINTENANCE AND SERVICE

5.2.26.1 Standards of Evaluation

The following specific standards shall be used in evaluating an application for the approval of this use:

5.2.26.1.a The proposed hours of operation shall be consistent with the predominant uses in the area.

5.2.26.1.b Lots with frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.

5.2.26.1.c Service bay doors shall not be located on the building façade facing the public right-of- way or on pedestrian- oriented façades.

5.2.26.1.d Applicants shall provide noise level documentation for equipment use outdoors on site. The permit issuing authority may require a single solution, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

5.2.27 MOTOR VEHICLE REPAIR

5.2.27.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

5.2.27.1.a Areas for storage of vehicles awaiting repair shall be buffered from the public right-of- way.

5.2.27.1.b Service bay doors shall not be located on the building façade facing the public right-of- way or on pedestrian- oriented façades.

5.2.27.1.c No outside display or storage of retail goods is permitted unless approved as a combination use.

- 5.2.27.1.d** Applicants shall provide noise level documentation for equipment and sound system use outdoors on site. The permit issuing authority may require a single solution, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

5.2.28 MOTOR VEHICLE SALES/RENTAL

5.2.28.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

- 5.2.28.1.a** Outside display of vehicles between the primary façade (i.e., the façade facing the public right-of-way) and the street is limited to an area not greater than five (5) percent of the gross floor area of the building on the site or twenty (20) vehicles, whichever is less.
- 5.2.28.1.b** Outside displays shall not be permitted in designated parking spaces. Vehicles designated as available for sale, lease or rent shall not be parked or displayed in designated parking spaces required to meet the minimum parking requirements of this Ordinance.
- 5.2.28.1.c** Outside display of vehicles available for sale, lease or rent are considered “parked cars” and the display area must meet requirements for parking lots in terms of landscaping, vehicle maneuvering, and similar requirements.
- 5.2.28.1.d** No service, maintenance or repairs of vehicles is permitted unless approved as a combination use.
- 5.2.28.1.e** Applicants shall provide noise level documentation for any sound system used outdoors on site. The permit issuing authority may require a single solution, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

5.2.29 ORDER FULFILLMENT CENTER

5.2.29.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

- 5.2.29.1.a** No more than twenty (20) percent of the gross floor area of the structure can be used for retail sales to walk-in customers.
- 5.2.29.1.b** When located in the Adaptive Re-Use District, new tenants in this category may not introduce tractor trailer traffic into or through a designated child/student loading or unloading area for any school or child day care in existence at the time of the order fulfillment center use application.

5.2.30 OUTLET SALES

5.2.30.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

- 5.2.30.1.a** Outlet sales areas may not exceed ten (10) percent of the gross floor area of the building on the parcel where such sales are to occur.

- 5.2.30.1.b** Parking spaces shall be provided for outlet sales areas using the same formula for determining the required number of spaces as is used for retail sales. Parking spaces shall be conveniently located to the sales entrance.

5.2.31 PARK, ATHLETIC AND PARK, COMMUNITY

5.2.31.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.31.1.a** The site plan shows there are no residential structures within one hundred (100) feet of any outdoor playing field (including but not limited to baseball fields, basketball courts, tennis courts, soccer fields, football fields, and spectator areas for such fields).
- 5.2.31.1.b** If there is no residential structure on the adjacent property, the outside boundary of the playing field must be set back at least fifty (50) feet from the property line. No structure associated with outdoor recreation activities shall be located within the setback required for the district in which the use occurs. Such structures include but are not limited to back stops, basketball or football goals, soccer goals, pavement for tennis or basketball courts, batting cages, bleachers, as well as picnic shelters, tables, swings, barbecue grills and playground equipment.
- 5.2.31.1.c** Athletic and community parks shall have a minimum lot area of five (5) acres, unless a lesser area is approved by the permit issuing authority upon good cause shown by the applicant to justify the reduction.
- 5.2.31.1.d** The lot size is adequate for the improvements proposed or required, and the lot provides room for adequate buffers and fencing. In particular, the applicant must show that adjacent property is protected from undue glare from outdoor lighting and trespass by patrons going to and from the park.
- 5.2.31.1.e** Security of park users and surrounding properties is addressed by balancing buffers and visual access into the park from adjacent lots and rights-of-way.
- 5.2.31.1.f** Proposed restroom facilities shall be adequate to accommodate the maximum number of participants expected.
- 5.2.31.1.g** The type of illumination for playing fields shall be designed and located to minimize the impact of glare on adjacent property and shall comply with the applicable lighting requirements of this Ordinance. All outdoor illumination associated with playing fields shall cease at 10:00 pm.

5.2.32 PARK, CULTURAL AND PARK, NATURAL

5.2.32.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of

this use:

- 5.2.32.1.a** Cultural parks shall have a minimum lot area of two (2) acres, unless a lesser area is approved by the permit issuing authority upon good cause shown by the applicant to justify the reduction.
- 5.2.31.1.b** The lot size is adequate for the improvements proposed or required, and the lot provides room for adequate buffers and fencing. In particular, the applicant must show that the adjacent property is protected from undue glare from outdoor lighting and trespass by patrons going to and from the park.
- 5.2.32.1.c** Security of park users and surrounding properties is addressed by balancing buffers and visual access into the park from adjacent lots and rights-of-way.
- 5.2.32.1.d** Proposed restroom facilities shall be adequate to accommodate the maximum number of participants expected.
- 5.2.32.1.e** All outdoor lighting shall be designed and located to minimize the impact of glare on adjacent property and be extinguished when the park is not in use.
- 5.2.32.1.f** All applicable site plan general standards included in Section 3.13, *Site Plan Review*, have been met.

5.2.33 PARK, NEIGHBORHOOD

5.2.33.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.33.1.a** The lot size is adequate for the improvements proposed or required and sufficient to serve the population living within a ¼ mile radius.
- 5.2.33.1.b** The site plan provides protection to neighboring uses in the form of buffers and fencing. In particular, the applicant must demonstrate that the adjacent property is protected from undue glare from outdoor lighting and trespass by participants going to and from the park.
- 5.2.33.1.c** Security of park users and surrounding properties is addressed by balancing buffers and visual access into the park from adjacent lots and rights-of-way.
- 5.2.33.1.d** Parking spaces are not required because of proximity to intended users; however, some parking may be appropriate to accommodate guests.

5.2.34 PARK AND RIDE FACILITY

5.2.34.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.34.1.a** The owner applicant is the Town of Hillsborough or a public transit provider

who will provide service to the site.

5.2.34.1.b The site contains 100 or fewer parking spaces.

5.2.34.1.c The submitted site plan shall include information about the size of transit vehicles to be using the site and demonstrate that the site has sufficient area and capacity to allow vehicles to maneuver safely on the site and to and from the adjoining public right of way.

5.2.34.1.d The submitted site plan or project narrative shall describe the proposed service (hours of operation and frequency) expected for the site upon opening and within 10 years.

5.2.34.1.e If the applicant proposes restrooms or other comfort facilities beyond open passenger shelters, these structures must be of a permanent nature, not temporary or movable.

5.2.34.1.f Emergency call boxes will be required for sites where the stop location is greater than 200 feet to any parking spaces or where there is not line of sight visibility from the stop location to all parking spaces.

5.2.34.1.g The project narrative shall also detail the owner or operators plans for site security and monitoring both while in service and outside of service hours.

5.2.34.1.h To the extent requirements in Section 6 of this ordinance limit the location and visibility of parking from adjoining rights of way; those sections will not be required for this use since the predominant site activity is parking. The permit issuing authority may allow flexibility of landscaping location on the site to maximize site efficiency and safety to users so long as the total required landscaping required by this ordinance is installed on the parcel.

5.2.34.1.i The permit issuing authority may increase landscaping or screening requirements along adjoining residential property to mitigate the impacts to those properties.

5.2.35 PERFORMANCE FACILITY

5.2.35.1 Standards of Evaluation

The following specific standards shall be used in deciding upon an application for approval of uses in this category:

5.2.35.1.a When located in the Central Commercial district, this use shall:

- (a) Not include athletic events
- (b) Be limited to 99 seats or less
- (c) Retain all existing street and sidewalk facing windows with visually transparent glass, although UV coatings are permitted.

5.2.35.1.b Outdoor performances can only be performed when the use is a special use in its zoning district and outdoor amplified performances are part of the original or modified Special Use Permit application OR upon issuance of a noise permit if established in the Town Code and the permit requirements are applicable to

the proposed performance.

5.2.36 PERSONAL SERVICE BUSINESS

5.2.36.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use.

- 5.2.36.1.a** The site plan shows that there is adequate vehicular and pedestrian circulation space around the building in addition to the required stacking spaces (for purposes of this section a “stacking space” equals one car length, or approximately twenty feet). The required number of stacking spaces shown must be usable and must be located outside of any public road right-of-way. In the case of uses not specified in this Ordinance, the permit issuing authority shall determine whether the number of proposed stacking spaces is adequate for intended use.
- 5.2.36.1.b** The site plan shows that the circulation pattern is a one-way system that provides separation between the drive-up window customers and other customers, and that there is adequate room for individuals to park and maneuver safely in the parking lot.
- 5.2.36.1.c** Sites with a drive-up window may not have direct driveway connections to streets that are classified as arterial.
- 5.2.36.1.d** Drive-up windows shall not be located on the primary or pedestrian-oriented facades of buildings.
- 5.2.36.1.e** Stacking spaces for drive-up areas shall not inhibit traffic flow on the site.
- 5.2.36.1.f** Dry cleaning and laundry services are required to have three (3) stacking spaces per window.

5.2.37 PETROLEUM PRODUCTS, STORAGE AND DISTRIBUTION

5.2.37.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for the approval of this use:

- 5.2.37.1.a** When this use is operated in conjunction with retail sales and uses storage capacity is limited to no more than ten thousand (10,000) gallons for sale to retail customers.
- 5.2.37.1.b** When this use is operated only for sale to bulk customers or storage capacity exceeds ten thousand (10,000) gallons, retail sales and rental uses are allowed.
- 5.2.37.1.c** The amounts of petroleum products to be stored shall not exceed the capacity of the site to protect adjacent property from harm in an emergency. The proposed methods of handling the material shall be in accordance with

accepted practices.

- 5.2.37.1.d** The Fire Marshal has reviewed and accepted the emergency response plan. The applicant shall have sufficient material to respond to an emergency or the fire department has the existing capacity to respond.
- 5.2.37.1.e** No existing structures on adjacent property shall be closer than one hundred and fifty (150) feet to any proposed storage vessel. No vessel shall be closer than one hundred (100) feet to a property line. Existing bulk storage facilities shall meet the standards set forth in the Fire Prevention Code as recommended by the American Insurance Association.
- 5.2.37.1.f** The site shall be secured, by a chain link fence with barbed wire or a wall with barbed wire, or other similar perimeter security barriers as approved by the permit issuing authority. The minimum height shall be eight (8) feet.
- 5.2.37.1.g** The system of drainage and dikes on site shall prevent the discharge of any stored products into streams on the property or on adjacent property. The impoundment basin shall be of sufficient volume to retain the volume of the largest storage vessel on the site. The dikes must be designed in such a manner as not to impede normal maintenance in and around the vessels or the response during an emergency.
- 5.2.37.1.h** The site plan must demonstrate that there will be no adverse environmental impacts on water quality or on aquatic life in the Eno River or any tributary thereto.
- 5.2.37.1.i** A fire hydrant served by a minimum six (6) inch line shall be located within two hundred and fifty (250) feet of the main entrance to the proposed facility.
- 5.2.37.1.j** The storage facilities shall be screened from the public right-of-way and from adjoining properties by a Type B buffer.

5.2.38 PHARMACY, CONVENIENCE

5.2.38.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use.

- 5.2.38.1.a** The site plan shows that there is adequate vehicular and pedestrian circulation space around the building in addition to the required stacking spaces (for purposes of this section a “stacking space” equals one car length, or approximately twenty feet). The required number of stacking spaces shown must be usable and must be located outside any public road right-of-way. In the case of uses not specified in this Ordinance, the permit issuing authority shall determine whether the number of proposed stacking spaces is adequate for the intended use.

- 5.2.38.1.b** The site plan shows that the circulation pattern is a one-way system that provides a separation between the drive-up window customers and other customers, and that there is adequate room for individuals to park and maneuver safely in the parking lot.
- 5.2.38.1.c** Sites with drive-up windows shall not be located on the primary or pedestrian-oriented facades of the buildings.
- 5.2.38.1.d** Drive-up windows shall not be located on the primary or pedestrian-oriented facades of buildings.
- 5.2.38.1.e** Stacking spaces for drive-up areas shall not inhibit traffic flow on the site.

5.2.39 PLANNED DEVELOPMENT

5.2.39.1 Standards of Evaluation

The following specific standards shall be used in evaluating applications for PDs (Planned Developments):

- 5.2.39.1.a Master Development Plan:** The plan shall divide the PD into land-use categories and/or pods, and indicate density and specific uses permitted in each area for projects 6 acre and larger. For projects 1-5 acres in size a site development plan may be submitted with uses assigned more specifically to buildings or areas of the site.
- 5.2.39.1.b Compliance with Ordinance Requirements:** Unless specified otherwise in this subparagraph, PDs shall comply with all applicable standards of Section 6, Development Standards.
- 5.2.39.1.c Permitted Uses:** PDs may include residential and nonresidential uses; cluster housing; common areas; unusual arrangements of structures on site; or other combinations of structures and uses that depart from standard development layouts. Uses permitted in a PD are those designated in the approved master development plan. Density limits will be used to determine the maximum number of permitted dwelling units.
- 5.2.39.1.d Mix and Arrangement of Uses Required:**
 - (1) Required Mix of Uses: PDs shall contain a mix of at least two or more residential uses (e.g., single-family dwellings and attached dwellings) or residential and nonresidential uses (e.g., attached dwellings and offices).
 - (2) Use Arrangement: Uses may be arranged horizontally or vertically within the PD as follows:

- (a) Residential uses must be separated from major vehicular traffic flows and other disquieting influences, and
- (b) Non-residential uses must be concentrated at areas within the PD for maximum pedestrian convenience and accessibility.

5.2.39.1.e Density Allowances:

- (1) The following factors will be used in computing density: A factor of 3.0 persons per single-family detached dwelling; 2.5 persons per single-family attached dwelling or stacked townhouse; and 2 persons per multiple-family dwelling.
- (2) Residential densities in a PD must be designated as low, medium, or high on the approved master development plan. “Density area” as used herein means a development unit within an area designated on the approved development plan for low-, medium- or high-density.
 - (a) Low: The maximum density in any one low-density area is 5 dwelling units per acre.
 - (b) Medium: The maximum density in any one medium-density area is 15 dwelling units per acre.
 - (c) High: The maximum density in any one high-density area is 25 dwelling units per acre. An application that proposes housing that is affordable to households making 80% AMI or less at the time of construction may propose up to 40 units per acre as a maximum density (subject to rounding as defined in Section 9.1.4). Where affordable housing is proposed the preference is that this housing type be dispersed throughout the planned development instead of clustered together in one area.

5.2.39.1.f Development at Perimeter of PD: Where a PD district is 25 acres or more and adjoins a residential district without an intervening street or permanent open space:

- (a) Densities and intensities within 200 feet of the perimeter of the development shall be stepped down 20% from the average density and intensity of the PD; or
- (b) An area of 200 feet in width shall be planned and developed only for uses compatible with the adjoining residential district and in accordance with the lot area, width, setbacks/yards, and height requirements of that district; or

- (c) Open space with a depth of at least 50 feet shall be provided, and no intensive recreational use or off-street parking permitted within 100 feet of the district boundary.

5.2.39.1.g Dimensional Requirements: Dimensional requirements for interior lots and buildings shall be governed by the approved development plan, subject to the following exceptions:

- (1) Compliance with State Building Code: There are no setbacks or yards for interior lots provided requirements of the State building code are met.
- (2) Garage/Carport Access: If access to a garage or carport is provided from the front or side of a lot, then the garage/carport shall maintain a 15 foot setback from the back of the sidewalk, or curb if there is no sidewalk, as measured along the centerline of the driveway.

5.2.39.1.h Infill Projects: PDs designed on smaller tracts located within developed neighborhoods are permitted. Applicants are encouraged to design projects with architecture and building materials consistent with adjacent neighborhoods and to locate such developments close to existing schools, retail, entertainment and employment centers.

5.2.39.1.i Nonresidential Component Completion: Nonresidential portions of PDs may not be occupied until all residential portions of the development are completed, or their completion assured by any of the mechanisms provided in paragraph 3.14.12, Authorizing Occupancy Before Completion of Development, guaranteeing their completion.

5.2.39.1.j Phasing, Density Variation and Abandonment:

- (1) Phasing: Generally, all PDs shall be phased so the density/intensity of any phase, when combined with previously constructed phases, does not exceed overall project density/intensity.
- (2) Density Variation Between Phases: A greater concentration of density/intensity of land uses within a phase, whether it is earlier or later in the development than other phases, may be allowed provided it is offset by:
 - (a) a smaller concentration in any completed prior phase, or
 - (b) a dedication or reservation of open space on the remaining land by grant of an easement or covenant in favor of the Town, County, State, or land trust. The precise location of the dedication or reservation shall be deferred until an application for final approval is filed so flexibility of development can be maintained.

(3) Abandonment Before Project Completion: Applicants for PDs shall provide agreements, contracts, covenants, deed restrictions and sureties acceptable to the Town Attorney for:

(a) completion of the development according to the approved development plan and other documents of record, and

(b) maintenance of such areas, functions, and facilities as are not to be provided, operated, or maintained at public expense.

Covenants shall be placed on the property binding any successors in title to any commitments made as part of the project approval.

5.2.40 PUBLIC UTILITIES

5.2.40.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of these uses:

5.2.40.1a The proposed landscaping shall provide a visual buffer equal to a Type B buffer from adjacent property through new plantings or existing vegetation.

5.2.40.1.b The proposed site meets the needs of the applicant and minimizes potential adverse impacts on the adjacent property.

5.2.40.1.c All required state agency approvals have been obtained, and the proposed operators have been or will be certified by the appropriate state agency; no certificate of occupancy shall be issued until proof of such certification has been submitted to the Town.

5.2.40.1.d Public convenience and necessity shall be served by this facility if installed as proposed.

5.2.40.1.e All outside storage areas and treatment facilities are fenced with a minimum eight (8) foot high cyclone fence topped with barbed wire, or similar perimeter security satisfactory to the permit issuing authority

5.2.40.1.f The architectural elevations of the buildings show that the buildings preserve the character of the surrounding area to the maximum extent practicable.

5.2.40.1.g All structures except public water storage facilities are set back at least one hundred (100) feet from the property line. Elevated public water storage facilities shall observe a setback equal to the greater of the height of the storage facility or the setback required in the district where the facility is located.

5.2.40.1.h All electric power distribution and service lines (not including transformers or enclosures containing electrical equipment such as switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines shall be placed underground in accordance with the specifications and policies of the respective utility companies.

- 5.2.40.1.i** All electric power, telephone, gas distribution, and cable television lines serving new development and/or new structures shall run underground from the point of connection with the existing main lines to all structures on the lot served by those lines. Such lines shall be placed underground in accordance with the specifications and policies of the respective utility companies.
- 5.2.40.1.j** Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby properties, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden, expense or unnecessary duplication of service.
- 5.2.40.1.k** All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

5.2.41 RECREATIONAL FACILITY

5.2.41.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.41.1.a** Applicants shall indicate the maximum building capacity and the expected peak usage times including capacities and peak usage for all outdoor facilities, fields or courts included as elements of the facility.
- 5.2.41.1.b** Shared parking with adjacent uses that have different peak usage times is encouraged.
- 5.2.41.1.c** Outdoor facilities, fields, and courts located within one thousand (1,000) feet of residential uses shall not be used after 10:00 p.m. unless specifically authorized at the time of permit approval.
- 5.2.41.1.d** The public use portion of outdoor facilities, fields, and courts shall observe a fifty (50) foot setback from property lines when adjacent to property in residential use.
- 5.2.41.1.e** The setback requirement stated above is a presumptive setback, and may be expanded or reduced based on the particular circumstances of each application. In determining the appropriate setback for a particular situation, the Town must consider the impacts of noise, lights, and loss of privacy on neighboring properties. Mitigation measures may include, but are not limited to: grade change, landscaping, fencing, operations modifications and details.
- 5.2.41.1.f** In reviewing applications, the Town will balance the need for security and the impact of the proposed use on the surrounding neighborhood.

5.2.42 RESTAURANT

5.2.42.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.42.1.a** Outdoor eating areas shall be buffered, screened, landscaped, or otherwise located to protect patrons and adjacent properties from adverse impacts, and to provide a pleasant experience to the patrons.
- 5.2.42.1.b** Outdoor play or recreation areas shall be located on a pedestrian façade.
- 5.2.42.1.c** Sites shall not have direct driveway connections to streets classified as arterial.
- 5.2.42.1.d** Drive-up windows and ground-mounted menu boards shall not be located on the primary or pedestrian oriented façades.
- 5.2.42.1.e** Stacking space for drive-up areas shall not inhibit traffic flow on the site.
- 5.2.42.1.f** Drive-up windows are prohibited in the Limited Office (LO) district.
- 5.2.42.1.g** Restaurants proposed in the Neighborhood Business (NB) district shall provide information about their seating capacity, hours of operation, provision of drive-up or delivery service, on-site food preparation, special events offered, and service of alcoholic beverages to determine the use's compliance with the intent of the Neighborhood Business district.
- 5.2.42.1.h** Applicants shall provide noise level documentation for any sound system used outdoors on site. The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.
- 5.2.42.1.i** Outdoor performances must take place on the applicant's property and in compliance with Chapter 5, Article 1, *Noise*, of the Hillsborough Town Code.

5.2.43 RESTAURANT, CONVENIENCE

5.2.43.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use.

- 5.2.43.1.a** The site plan shows that there is adequate vehicular and pedestrian circulation space around the building in addition to the required stacking spaces (for purposes of this section a "stacking space" equals one car length, or approximately twenty feet). The required number of stacking spaces shown must be usable and must be located outside any public road right-of-way. In the case of uses not specified in this Ordinance, the permit issuing authority shall determine whether the number of proposed stacking spaces is adequate for the intended use.

- 5.2.43.1.b** The site plan shows that the circulation pattern is a one-way system that provides a separation between the drive-up window customers and other customers, and that there is adequate room for individuals to park and maneuver safely in the parking lot.
- 5.2.43.1.c** Sites with drive-up window may not have direct driveway connections to streets classified as arterial.
- 5.2.43.1.d** Drive-up windows and their menu boards shall not be located on the primary or pedestrian-oriented facades of buildings.
- 5.2.43.1.e** Stacking spaces for drive-up areas shall not inhibit traffic flow on the site.
- 5.2.43.1.f** Restaurants are required to have six (6) stacking spaces per window.

5.2.44 RETAIL SALES AND RENTAL OF GOODS

5.2.44.1 Standards of Evaluation

The following specific standards shall be used in evaluating an application for approval of this use:

- 5.2.44.1.a** Areas proposed for outside storage and display of retail items shall be clearly delineated on the site plan.
- 5.2.44.1.b** Areas proposed for outside display and storage of retail items shall be located in a fenced or buffered area.
- 5.2.44.1.c** Fenced areas must be enclosed on all sides by fencing or buildings, may be open to the sky, and the fence must be of adequate height to secure the area, but shall not exceed 8 feet in height.
- 5.2.44.1.d** Outside displays may not encroach on pedestrian ways, fire lanes, required parking spaces, travel lanes, or landscaped areas.

5.2.45 SCHOOL: ELEMENTARY, MIDDLE, & SECONDARY

5.2.45.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.45.1.a** Structures, driveways, and other significant physical features within one hundred (100) feet of property line of this project are protected from adverse impacts as required by this Ordinance.
- 5.2.45.1.b** Schools shall be located a minimum of one thousand (1,000) feet from established adult uses.
- 5.2.45.1.c** When located in the Adaptive Re-Use District, new tenants in this category shall install an opaque screen which is 80% solid (or greater) at least 6 feet tall to separate any outdoor play area from any existing outdoor seating area.

associated with a restaurant or bar.

5.2.45.1.d When located in the Adaptive Re-Use District, new tenants in this category may not designate child loading/unloading areas where there is overlapping driveway use with any industrial use in existence at the time of the school's application.

5.2.45.1.e When the proposed site is located in the Economic Development District, a minimum of 2,000 feet separation from any lot containing existing school: elementary, middle, or secondary and the lot containing the proposed school: elementary, middle, or secondary.

5.2.46 SHORT-TERM RENTAL

5.2.46.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

5.2.46.1.a A home occupation permit shall be required for all short-term rentals.

5.2.46.1.b Short-term rentals shall be used for lodging and overnight accommodations only and shall not be used for public events as defined in Section 9.2 *Definitions*.

5.2.47 STORAGE AND WAREHOUSING, OUTDOOR

5.2.47.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

5.2.47.1.a Storage areas shall be located behind buildings or screened from adjacent property and public right-of way with a solid screen at least six (6) feet in height.

5.2.47.1.b Solid screens may be one or a combination of fences, walls, vegetation, topographical change, or berms. Fences and walls must be opaque, and vegetation must be kept in healthy condition.

5.2.47.1.c No item defined by this Ordinance or in the Town Code as "solid waste" may be stored on a site.

5.2.47.1.d No hazardous materials may be stored unless specifically authorized by the State Fire Code and necessary for operations in the ordinary course of business for the principle use on the site.

5.2.47.1.e All outside storage areas shall be clearly indicated on submitted site plans and storage must be confined to designated areas.

5.2.48 SUBDIVISION, MAJOR or SPECIAL

5.2.48.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of

uses in this category:

- 5.2.48.1.a** The preliminary subdivision plan shows lots that conform to the minimum lot size and width requirements shown in Section 6.3, *General Dimensional Standards*.
- 5.2.48.1.b** Any new public street to be constructed as part of this proposal conforms to the town design specifications for that street type.
- 5.2.48.1.c** At least 20 new lots including any remainder are being created from the parent tract within any five-year period for a Special Subdivision.
- 5.2.48.1.d** The relevant development standards in Section 6 are met or reasonably can be met.

5.2.49 SUBDIVISION, CONSERVATION

5.2.49.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.49.1.a** The site plan shall identify and protect existing “irreplaceable nature features” on the site. These areas shall be designated Open Space in accordance with Section 6.12.
- 5.2.49.1.b** The development plan sets aside a minimum of 35% of the gross parcel area in land that meets the standards for open space.
- 5.2.49.1.c** The development plan creates no more than 100 dwelling units, including accessory units in detached structures.
- 5.2.49.1.d** Individual lots have no required minimum area or width, provided each lot meets the minimum street frontage requirement and the density limit for the zoning district as calculated in Section 6.3, *General Dimensional Standards*.
- 5.2.49.1.e** Individual lots observe a minimum front yard setback of 15’ and side and rear setback of 10’ each, or such other setbacks approved by the permit issuing authority that meet fire and building code requirements.
- 5.2.49.1.f** Any new public street conforms to the town design specifications for that street type.
- 5.2.49.1.g** At least 20 new lots, including any remainder of the original parcel being subdivided, are being created within a five-year period.
- 5.2.49.1.h** The relevant development standards in Section 6 are met or reasonably can be met.

5.2.50 SUBDIVISION, MINOR

5.2.50.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of uses in this category:

- 5.2.50.1.a** The preliminary subdivision plan shows lots that conform to the minimum lot size and width requirements as shown in Section 6.3, *General Dimensional Standards*.
- 5.2.50.1.b** Any new street to be constructed as part of this proposal conforms to the town design specifications for that street type.
- 5.2.50.1.c** No more than 4 lots, including any remainder shall be, created from the parent tract within any five-year period. The creation of a fifth (or more) lot within a five-year period shall cause the subdivision to be processed as a Major subdivision.
- 5.2.50.1.d** A map or plat suitable for recording in the Register of Deeds shall be submitted.

5.2.51 TELECOMMUNICATION TOWER**5.2.51.1 Standards of Evaluation**

The following specific standards shall be used to evaluate an application for approval:

- 5.2.51.1.a** Adjacent to residential zoning districts, minimum setbacks from the base of the tower to the property boundary shall be equal to the height of the tower. The setback may be reduced to no less than one-half of the tower height if easements for the remaining setback distance are granted by adjoining property owners, provided that no residence may be located within a distance equal to the height of the tower measured from the base of the tower.
- 5.2.51.1.b** Adjacent to non-residential zoning districts, minimum setbacks from the base of the tower to the property boundary shall be equal to fifty (50) percent of the height of the tower. The setback may be reduced to no less than twenty (20) percent of the tower height if an engineer certifies that the proposed setbacks are sufficient to contain the tower in the event of collapse.
- 5.2.51.1.c** A Type B buffer shall be provided between the base of the tower (including all base station equipment) and adjoining property. Existing vegetation may be removed only to the extent necessary to accommodate the tower, equipment buildings, and support structures such as guy wires.
- 5.2.51.1.d** No structures may be located within the required tower setback area, except those structures which are accessory to the tower.
- 5.2.51.1.e** The site plan shall reserve space for at least one (1) equipment building in addition to that proposed for use by the applicant in order to accommodate and encourage co- location opportunities.
- 5.2.51.1.f** Security fencing shall be provided around the tower base or around the perimeter of the site.

- 5.2.51.1.g** The applicant shall provide a written explanation documenting how or why the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing tower. Such written explanation shall, at a minimum, address the following issues:
- 5.2.51.1.h** The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers. The applicant must address whether any existing tower serving the area can be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
- 5.2.51.1.i** The planned equipment would cause radio frequency interferences with other existing or planned equipment for existing towers and the interference cannot be prevented at a reasonable cost.
- 5.2.51.1.j** Existing or approved towers do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing or approved equipment.
- 5.2.51.1.k** No tower or other suitable facility exists in an area where the equipment to be placed on the tower will function in its intended manner.
- 5.2.51.1.l** The proposed telecommunications tower shall be structurally designed to support at least one (1) additional user, and the required SPECIAL Use Permit shall include a statement that the owner of the tower will require all users of the tower to permit other user(s) to attach communication facilities which do not interfere with the primary purpose of the tower, provided that such other users agree to negotiate commercially reasonable terms for shared use of the facility. The color of the tower shall be of light tone, except to the extent required by law, so as to minimize its visual impact.
- 5.2.51.1.m** The tower shall not be artificially lighted unless required by the FAA, FCC or other federal or state agency having jurisdiction.
- 5.2.51.1.n** Although the height of the tower and antenna may exceed the maximum height of the zoning district, neither will unreasonably interfere with the view of/from any historic site, scenic road, or major view corridor. The height, design, placement, or other characteristics of the proposed tower shall be designed in a manner to minimize the intrusive visual impact on the surrounding area.
- 5.2.51.1.o** The permit issuing authority may authorize the location of a tower exceeding the height of the Eno/Occoneechee Mountain ridge line provided the tower is directly related to public safety and another location is impracticable.
- 5.2.51.1.p** Towers and appurtenant fixtures with expired communication licenses shall be removed within twelve (12) months of the license expiration, or within 12 months of the cessation of active telecommunications use of the tower for any reason. The Special Use Permit shall include a requirement that the applicant

record a removal agreement to ensure compliance with this requirement. The approved permit will also list the Planning Director as a recipient of all license renewal notices.

5.2.52 TRANSMISSION LINE

5.2.52.1 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of new high voltage electric transmission lines in the Town's zoning jurisdiction:

- 5.2.52.1.a** The width of the right-of-way is sufficient to protect existing structures on adjacent property from tower collapse, effects of electromagnetic fields, and transmission line failure.
- 5.2.52.1.b** The methods of the proposed right-of-way maintenance protect adjacent property owners and property from herbicide damage due to herbicides and other maintenance methods and chemicals.
- 5.2.52.1.c** The public convenience and necessity shall be served by this facility if installed as proposed.
- 5.2.52.1.d** The applicant has submitted an emergency response plan which protects adjacent properties and the environment from accidental or natural disaster.

6. DEVELOPMENT STANDARDS

6.1 PURPOSE AND INTENT

The general intent of this section is to provide standards for development to help ensure the safe and convenient development of land on sites and in locations adequate for the uses proposed. No Zoning Compliance Permit or Certificate of Occupancy shall be issued for uses of land, structures and/or buildings, or for a change in the use, unless the requirements of this Chapter are met. The standards set forth in this section are to be used in conjunction with the other sections of this Ordinance in the development of projects and submittal of site plans.

6.2 Reserved for future codification

6.3 GENERAL DIMENSIONAL STANDARDS

The following section includes dimensional standards for both residential and non-residential zoning districts. These general dimensional standards apply to all properties unless otherwise specified in this Ordinance or by the permit-issuing authority.

There are three tables in this section:

- 6.3.1 Residential Dimensional Requirements includes a summary table that specifies the area, maximum height, and yard setbacks for each of the respective types of residential zoning districts
- 6.3.2 Non-residential Dimensional Requirements includes a summary table that specifies the area, maximum height, and yard setbacks for each of the respective types of non-residential zoning districts
- 6.3.3 Side and Rear Setback for lots abutting a different Zoning District includes a summary table that specifies yard setbacks for lots when the adjacent property is of a different zoning district.
 - 6.3.3.1 Bona fide farm operations in the AR district are exempt from the side yard and rear yard setback requirements provided (a) the bona fide farm is a lot or parcel located outside the corporate limits of Hillsborough (i.e., is in the extraterritorial zoning jurisdiction, and (b) the lot line with respect to which the setback exemption is sought lies adjacent to other property zoned AR or to property outside Hillsborough’s zoning jurisdiction.

6.3.1 TABLE: DIMENSIONAL REQUIREMENTS –RESIDENTIAL

	AR	R-40	R-20	R-15	R-10	MF & MFSU	MHP	ALN	PW ¹	PWCA ¹
Minimum Lot Area (sf)	40,000	40,000	20,000	15,000	10,000	1 acre	5 acres 5,714 sf per dwelling	1 acre	1 acre	2 acres
Minimum Lot Width	200	150	100	100	75	200	200	200	150	150
Minimum Side Yard Width	30	30	20	15	15	40	40	40	30	30
Minimum Rear Yard Width	30	30	20	20	20	40	40	40	30	30
Minimum Front Setback	40	40	30	25	25	35	35	35	30	30
Maximum Building Height	65	45	45	45	45	45	35	35	45	45
Maximum Impervious Surface (% of gross lot)	NA	NA	NA	NA	NA	NA	NA	NA	30%	6%

¹ Refer to Section 4.5 for additional requirements in the PW and PWCA districts.

² The maximum density for attached dwellings in the MF or MFSU district is 20 units per acre (subject to rounding as defined in Section 9.1.4).

³ An attached dwelling application that proposes all units to be affordable to households making 80% AMI or less at the time of construction may propose up to 30 units per acre as a maximum density (subject to rounding as defined in Section 9.1.4).

6.3.2 TABLE: DIMENSIONAL REQUIREMENTS –NON-RESIDENTIAL

	ARU	OI	NB & NBSU	CC & CCSU	GC	HIC	LI	GI	LO	ESU	EDD	BP	SDSU
Minimum Lot Area (sf or acre)	3 acres	10,000	10,000	None	10,000	10,000	40,000	40,000	1 acre	2 acres	40,000	40,000	TBD
Attached dwelling minimum lot size (min sf per unit)	3,630 sf 12 DU/ac	NA	NA TBD (SUP)	NA TBD (SUP)	NA	NA	NA	NA TBD (SUP)	NA	TBD	NA	NA	TBD
Minimum Lot Width	100	75	75	0	75	75	100	200	75	100	75	75	TBD
Minimum Side Yard Width	20*	20*	15*	0	15*^	15*^	50*	50*	20	20	25	25	TBD
Minimum Rear Yard Width	20*	20*	20*	0	20*^	20*^	50*	50*	20	20	25	25	TBD
Minimum Front Setback	20	20	20	0	20*	20*	35	35	20	50	25	25	TBD
Maximum Building Height	65	40	35	40	40	65	65	65	60	60	45	60	60

* Refer to Table 6.3.3 for Side and Rear Setbacks for Zoning Lots Abutting a Different Zoning District.

^ For parcels abutting South Churton Street between Interstate-40 and the Eno River, parking must observe at 10' landscaped setback from a side or rear property line. Please refer to Section 6.10.3

+ For parcels abutting South Churton Street between Interstate-40 and the Eno River, the minimum front yard setback is 30 feet and the maximum front yard setback is 100 feet, measured from the Churton Street right of way boundary.

TBD – This standard will be determined during the SPECIAL Use Permit review process

6.3.3 TABLE: SIDE AND REAR SETBACKS FOR LOTS ABUTTING A DIFFERENT ZONING DISTRICT

Adjacent -> Proposed	R-40	R-20	R-15	R-10	MF	AR	ARU	OI	NB	CC	GC	HIC	GI	LI	EDD	NB-SU	CC-SU	PW	PWCA
ARU	50	50	50	50	50	50	0	20	20	0	0	0	20	20	20	20	0	50	50
OI	20	20	20	20	20	20	0	0	0	0	0	15	20	20	20	0	0	20	20
NB	15	15	15	15	15	15	0	0	0	0	0	15	15	15	15	0	0	15	15
GC	30	30	20	20	20	30	0	0	0	0	0	0	20	20	20	0	0	30	30
HIC	30	30	20	20	20	30	0	15	15	15	0	0	20	20	20	0	0	30	30
LI	50	50	50	50	50	50	0	50	50	50	50	30	0	0	20	0	0	50	50
GI	50	50	50	50	50	50	0	50	50	50	50	30	0	0	20	0	0	50	50
EDD	25	25	25	25	25	25	25	20	25	25	25	25	25	20	25	25	25	25	25

6.4 AIR POLLUTION

6.4.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating air pollution and contaminants in order to provide clean air. Any permitted principal use, special use, or accessory use that emits any "air contaminant" as defined in North Carolina General Statutes, Section 143-213, shall comply with applicable State of North Carolina standards concerning air pollution, as set forth in Article 21B of Chapter 143 of the North Carolina General Statutes.

6.4.2 STANDARDS AND REQUIREMENTS

No Zoning Compliance Permit shall be issued with respect to any development emitting an "air contaminant" until the NC Department of Environment and Natural Resources, Division of Air Quality, has certified to the Planning Director that the appropriate State permits have been received by the applicant (as provided in North Carolina General Statutes, Section 143-215.108) or that the applicant will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution control regulations. If a State permit is required, but has not yet been approved at the time the Town is about to issue a Zoning Compliance, the Town's Zoning Compliance shall be issued subject to a condition that no CO may be issued until the State permit has been issued.

6.5 BUFFERS

6.5.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the spacing of adjacent land uses. Buffers are required where differences in adjacent zoning designations suggest that spatial separation is necessary to offset potential adverse impacts of adjacent uses. Screening requirements to mitigate the impacts of specific activities like parking or solid waste storage are addressed in Section 6.16, *Screening*.

6.5.2 APPLICABILITY

- 6.5.2.1** Buffers will generally be established at the earliest review phase (for example: lot creation), once uses and densities are proposed in accordance with applicable regulations. However, a buffer standard may be amended prior to the issuance of a Zoning Compliance Permit subsequent to any changes including but not limited to zoning classification or development adjacent to the subject parcel.
- 6.5.2.2** This Subsection applies to any of the following, except where exempted by Section 6.5.2.3 below:
 - 6.5.2.2.a** The construction or erection of any new building or structure for which a Zoning Compliance Permit, Special Use Permit, or Site Plan approval is required; or
 - 6.5.2.2.b** Any enlargement exceeding 5,000 square feet or 25% in area, whichever is less, of the gross floor area an existing building for which a development approval is required; or
 - 6.5.2.2.c** Any construction of a new parking lot or expansion of an existing parking lot OR establishment or expansion of an accessory use not involving a structure by more

than 2,000 square feet or 10% in area, whichever is greater.

6.5.2.3 This Subsection does not apply to the following situations:

- 6.5.2.3.a** Single-family dwelling units and mobile/manufactured homes on existing lots of record.
- 6.5.2.3.b** Agricultural uses.
- 6.5.2.3.c** Non-residential uses that abut other non-residential uses in the same zoning district.
- 6.5.2.3.d** Interior finish work or remodeling in a portion of a building unless the work results in an increase as described in Section 6.5.2.2.b.
- 6.5.2.3.e** Any use, building or structure for which only a change of use is requested, and which use does not increase the gross floor area of the existing building.

6.5.3 LOCATION OF BUFFERS

Buffers shall be located on commonly held open space or the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

6.5.4 BUFFER DESCRIPTIONS AND STANDARDS

6.5.4.1 The following tables describe four types of buffer (A, B, C, and D) and different width, plant density, and structure combinations which meet the standard. Buffer requirements are stated in terms of the width of the buffer and the number of plant units required per 100 linear feet of buffer. The requirements of a specific buffer may be satisfied by any of the types provided. The type and quantity of plant materials required by each buffer type are specified in this Section. Specific species allowed and prohibited are listed in the Administrative Manual by size.

Table 6.5.4.1: Standards for Type A Buffers

Buffer Type	Required Buffer Width	Minimum # Plantings Required Per 100 Linear Feet of Buffer		Structure Type & Height Required
A1	10 Feet	Large Trees	1	Not Required
		Small Trees or Large Shrubs	2	
		Mid-size or Small Shrubs	4	
A2	15 Feet	Large Trees	0	Not Required
		Small Trees or Large Shrubs	3	
		Mid-size or Small Shrubs	4	
A3	20 Feet	Large Trees	0	Not Required
		Small Trees or Large Shrubs	5	
		Mid-size or Small Shrubs	0	

Table 6.5.4.2: Standards for Type B Buffers

Buffer Type	Required Buffer Width	Minimum # Plantings Required Per 100 Linear Feet of Buffer		Structure Type & Height Required
B1	15 Feet	Large Trees	3	8-foot Fence
		Small Trees or Large Shrubs	0	
		Mid-size or Small Shrubs	0	
B2	20 Feet	Large Trees	2	6-foot Fence
		Small Trees or Large Shrubs	4	
		Mid-size or Small Shrubs	0	
B3	25 Feet	Large Trees	3	Not Required
		Small Trees or Large Shrubs	4	
		Mid-size or Small Shrubs	0	
B4	30 Feet	Large Trees	3	Not Required
		Small Trees or Large Shrubs	0	
		Mid-size or Small Shrubs	16	
B5	40 Feet	Large Trees	2	Not Required
		Small Trees or Large Shrubs	2	
		Mid-size or Small Shrubs	10	
Fences in the Type B buffer shall be wood, metal, brick, masonry, or stone and are not required to be opaque. Acceptable styles include picket, post and rail, alternating board, stockade, and pierced or open block. The use of chain link with vinyl slats, vinyl, galvanized or sheet metal are not acceptable.				
At least 50% of the shrubs for Type B buffers shall be evergreen, based on the number of plants required in the table				

Table 6.5.4.3: Standards for Type C Buffers

Buffer Type	Required Buffer Width	Minimum # Plantings Required Per 100 Linear Feet of Buffer		Structure Type & Height Required
C1	25 Feet	Large Trees	3	8-foot Masonry Wall or stockade fence
		Small Trees or Large Shrubs	6	
		Mid-size or Small Shrubs	0	
C2	30 Feet	Large Trees	3	6-foot Masonry Wall or stockade fence
		Small Trees or Large Shrubs	2	
		Mid-size or Small Shrubs	10	
C3	40 Feet	Large Trees	3	5-foot Earthen Berm
		Small Trees or Large Shrubs	7	
		Mid-size or Small Shrubs	12	
C4	50 Feet	Large Trees	5	4-foot Earthen Berm
		Small Trees or Large Shrubs	5	
		Mid-size or Small Shrubs	14	
C5	60 Feet	Large Trees	4	Not Required
		Small Trees or Large Shrubs	7	
		Mid-size or Small Shrubs	34	
Walls may be brick, concrete, concrete block with stucco finish, masonry, stone or a combination of these materials.				
At least 50% of the shrubs for Type C buffers shall be evergreen, based on the number of plants required in the table.				
Berms shall have a slope not greater than the slope created in 3 horizontal feet with a 1-foot vertical rise. The surface of the berm that is not planted with trees and shrubs shall be covered with grass, perennial ground cover, vines, and woody and herbaceous perennials, with mulch. Grass or other coverings shall be maintained in conformance with applicable Town of Hillsborough codes.				

Table 6.5.4.4: Standards for Type D Buffers

Buffer Type	Required Buffer Width	Minimum # Plantings Required Per 100 Linear Feet of Buffer		Structure Type & Height Required
D1	100 Feet	Large Trees	8	5-foot Earthen Berm
		Small Trees or Large Shrubs	13	
		Mid-size or Small Shrubs	34	
D2	100 Feet	Large Trees	12	Not Required
		Small Trees or Large Shrubs	10	
		Mid-size or Small Shrubs	20	
D3	100 Feet	Large Evergreen Trees	20	
Berms shall have a slope not greater than the slope created in 3 horizontal feet with a 1-foot vertical rise. The surface of the berm that is not planted with trees and shrubs shall be covered with grass, perennial ground cover, vines, and woody and herbaceous perennials, with mulch. Grass or other coverings shall be maintained in conformance with applicable Town of Hillsborough codes.				

6.5.5. SPECIAL CASES AND CONSIDERATIONS

- 6.5.5.1.** Where existing or proposed overhead electric lines exist, small trees may be substituted for large trees.
- 6.5.5.2.** If the development on the adjoining use is existing, planned or deed restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access.
- 6.5.5.3.** Any existing plant material which otherwise satisfies the requirements of this Section may be counted toward satisfying all such requirements.
- 6.5.5.4.** The exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:
 - 6.5.5.4.a** Evergreen plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.
 - 6.5.5.4.b** When a masonry wall is a component of the buffer, a planting area at least 5 feet wide containing 15% of the total plant requirements shall be located between the masonry wall and the higher intensity class use. These plants shall be chosen to provide species and sizes to reduce noise in conjunction with the wall.
 - 6.5.5.4.c** All buffer areas shall be seeded with lawn or other non-invasive ground cover unless ground cover is already established.

6.5.6. PLANT MATERIAL AND STRUCTURE SUBSTITUTIONS

- 6.5.6.1.** In Type B and C buffers, evergreen trees may be substituted for deciduous trees of the same size category without limitation.
- 6.5.6.2.** In Type A buffers, evergreen trees of the same size category may be substituted up to a maximum of 50% of the total number of the deciduous large trees otherwise required and without limitation for required deciduous small trees.
- 6.5.6.3.** In all buffers, evergreen shrubs may be substituted for deciduous shrubs without limitation.
- 6.5.6.4.** The following structures are equivalent and may be used interchangeably:

Structure	Equivalent
6-foot Fence	4-foot Earthen Berm
8-foot Fence	5-foot Earthen Berm
6-foot Masonry Wall	6-foot Earthen Berm
8-foot Masonry Wall	4-foot Berm with 6-foot Masonry Wall
4-foot Earthen Berm	6-foot Wood Stockade Fence
5-foot Earthen Berm	8-foot Wood Stockade Fence

6.5.7. SPECIAL CIRCUMSTANCES BASED ON ADJACENT CONDITIONS

- 6.5.7.1.** Where the buffer required between a land use and vacant land turns out to be greater than that buffer which is required between the first use and the subsequently developed use, the

subsequent use may provide one-half (.5) of the required buffer. The existing use may expand its use into the original buffer area, provided the resulting total buffer between the two uses meets the buffer requirements of Table 6.5.10.

- 6.5.7.2.** When a parcel to be developed is adjacent to an Interstate or railroad right of way, a 100-foot undisturbed buffer shall be provided along the adjacent property line, regardless of the requirement in Table 6.5.10. This buffer shall be planted to meet the standard of a Type D buffer if the existing vegetation does not meet that standard.

Exceptions to this requirement are as follows:

- 6.5.7.2.a** If an existing public road separates the parcel where development is proposed from an Interstate or railroad right of way, no buffer shall be required. This section applies to constructed public roads, regardless of where the road right of way exists in relation to the railroad or Interstate right of way.
- 6.5.7.2.b** If the applicant property is the redevelopment of an existing parcel with a platted land use buffer from a previous development code, the maintenance of that previously required buffer shall be taken to satisfy the Type D buffer.
- 6.5.7.2.c** If the applicant property is of an existing single-family parcel where a land use buffer was not shown on the recorded plat creating the parcel, the Type D buffer will not be required.
- 6.5.7.2.d** If the applicant property is the development or redevelopment of a train station, passenger platform, walkways or other related items to serve rail or transit passengers such as parking, maintenance, or loading of the railroad the 100-foot buffer standards do not apply.

- 6.5.7.3.** When a non-residential parcel is adjacent to a street classified as arterial or collector, no buffer shall be required along the street frontage, regardless of the requirement in Table 6.5.10, unless modified by the permit-issuing authority.

6.5.8 USE AND DEVELOPMENT WITHIN BUFFERS

- 6.5.8.1** Buffers shall not contain any development, impervious surfaces or site features that do not function to meet the standards of this Subsection unless otherwise allowed.
- 6.5.8.2** Fences not required to satisfy buffer requirements may be placed in buffers provided that no canopy tree is removed and damage to existing vegetation is minimized.
- 6.5.8.3** 6.5.8.3 New utility corridors are not permitted in buffers unless no reasonable alternative exists. Crossings at angles between 60 and 90 degrees are acceptable where utility corridors are necessary. New utilities may only run coincident or parallel with a required buffer if:
 - 6.5.8.3.a** The utility is installed on the new development side of the buffer and in a manner that allows the installation of an A1, B1, or C1 buffer, as required by Table 6.5.10, between the utility and the property line. If a Type D buffer is required, a buffer meeting the requirements of Table 6.5.4.4 shall be installed on the development side of the utility and the utility placed as close to the property line as reasonable.

- 6.5.8.4** When a development plan is proposed on land adjacent to or encumbered with an existing utility easement (overhead or underground) and the proposed development will not modify or relocate the utility, no buffer is required to be installed by the development plan. The development plan must maintain any existing buffer (vegetative, built, or topographic) existing at the time of development plan application between the existing utility easement and adjoining properties requiring a buffer under this ordinance.
- 6.5.8.5** When a development plan is proposed on land adjacent to or encumbered with an existing utility easement (overhead or underground) and the proposed development will not modify or relocate the utility, no buffer is required to be installed by the development plan. The development plan must maintain any existing buffer (vegetative, built, or topographic) existing at the time of development plan application between the existing utility easement and adjoining properties requiring a buffer under this ordinance.
- 6.5.8.6** A buffer may be used for passive recreation and contain pedestrian trails provided that:
- 6.5.8.6.a** No canopy trees are eliminated.
 - 6.5.8.6.b** The total width of the buffer is maintained, and
 - 6.5.8.6.c** The required buffer standards (width, plantings, and fences) are met between the trail and the adjoining use triggering the buffer.
- 6.5.8.7** In no event shall playfields, swimming pools, tennis courts and other active recreation areas, storage of materials, parking or structures (except for necessary utility boxes and equipment) be allowed in buffers.

6.5.9 OWNERSHIP OF BUFFERS

- 6.5.9.1** No required buffer in a residential development shall be included within any single-family lot or be wholly owned (in fee simple absolute) by the owner of an individual residential building lot zoned for residential uses. Buffers in residential developments shall be owned by a homeowner's association or other entity charged with its preservation and the preservation of existing landscaping. Buffers may be collocated in areas designated as open space are required in Section 6.12 of this ordinance.
- 6.5.9.2** The required buffer for a non-residential or multi-family site may be owned by a property owner's association or by the property owner.

Figure 6-2: Required Buffer Placement

6.5.10 MAINTENANCE OF BUFFERS

- 6.5.10.1** Where a buffer is owned by a property owners association, the covenants for the development shall require that association to maintain the buffers and shall include a buffer maintenance plan.
- 6.5.10.2** For parcels that contain a buffer as part of a permit requirement, the property owner shall maintain the buffer. The site will be inspected at the end of the second growing season following permit issuance for compliance and during any subsequent development review to ensure continued compliance.

6.5.10 TABLE: REQUIRED BUFFERS

Applicant Zoning ↓	Adjacent Zoning									
	AR	R-40	R-20	R-15	R-10	MF	MFSU	MHP	ALN	RSU
AR										
R-40										
R-20										
R-15										
R-10										
MF	B	B	B	A	A		A	A		
MFSU	B	B	B	A	A	A		A	A	
MHP	B	B	B	B	B	A	A		A	
ALN	A	A	A	A	A	A	A	A		
RSU										
NB	A	A	A	A	A	A	A	A	A	
NBSU	A	A	A	A	A	A	A	A	A	
LO	B	B	B	A	A	A	A	A	A	A
OI	B	B	B	A	A	A	A	A	A	A
CC										
GC	B	B	B	B	B	B	B	B	B	B
HIC	C	C	C	B	B	B	B	B	B	B
LI	C	C	C	B	B	B	B	B	B	B
GI	C	C	C	B	B	B	B	B	B	B
ESU	C	C	C	B	B	B	B	B	B	B
BP	C	C	C	B	B	B	B	B	B	B
SDD	C	C	C	B	B	B	B	B	B	B
EDD	C	C	C	C	C	C	C	C	C	C

6.5.10 TABLE: REQUIRED BUFFERS (CONTINUED)

Applicant Zoning ↓	Adjacent Zoning												
	NB	NBSU	LO	OI	CC	GC	HIC	LI	GI	ESU	BP	SDD	EDD
AR	A	A	A	A		A	B	B	C	B	B	B	
R-40	A	A	A	A		A	B	B	C	B	B	B	
R-20	A	A	A	A		A	B	B	C	B	B	B	
R-15	A	A	A	A		A	B	B	C	B	B	B	
R-10	A	A	A	A		A	B	B	C	B	B	B	
MF	A	A	A	A		A	B	B	C	B	B	B	
MFSU	A	A	A	A		A	B	B	C	B	B	B	
MHP	A	A	A	A		A	B	B	C	B	B	B	
ALN	A	A	A	A		A	B	B	C	B	B	B	
RSU	A	A	A	A		A	B	B	C	B	B	B	
NB													
NBSU													
LO				A		A	A	A	A	A	A	A	
OI			A			A	A	A	A	A	A	A	
CC													
GC	A	A		A				A	A	A	A	A	A
HIC				B									A
LI				B									
GI				B									
ESU		C	C	C		C	C	C	C		C	C	A
BP		B	B	B		B	A	A	A			B	
SDD			B	A		B	B	B	B	A	A		B
EDD	A	A	A	A	A					A		B	

6.5.11 SOUTH CHURTON NON-RESIDENTIAL BUFFER

6.5.11.1 Intent

The intent of the South Churton non-residential buffer is to create visually appealing and landscaped frontage to the commercial core located along South Churton Street between Interstate-40 and the Eno River.

6.5.11.2 Applicability

All development of currently undeveloped parcels or significant redevelopment of parcels which abut the public right of way of South Churton Street between the Eno River and Interstate-40 shall include buffers satisfying the standards established herein as part of any site plan, Special Use Permit. This subsection provides implementation options to accommodate a variety of situations. "Significant redevelopment" shall mean redevelopment or renovation of an existing structure or vehicle accommodation area that disturbs 50% or more of the parcel area.

6.5.11.3 Requirements

6.5.11.3.a The South Churton buffer area shall be measured from the property edge of the South Churton Street right of way. The 1999 Feasibility Study for the widening of this facility required 100 feet of right of way for the improved South Churton Street. Any property undergoing development or significant redevelopment will need to dedicate any right of way not already secured for this project before certificates of occupancy will be issued for the property's requested improvements.

6.5.11.3.b The buffer shall be at least 30 feet wide and shall be improved with trees and landscaping consistent with Section 6.5.11.4 below.

6.5.11.3.c New structures shall be setback at least 30 feet, but not more than 100 feet, from the edge of the right of way.

6.5.11.4 Options

6.5.11.4.a A landscaping density score will be calculated for each site subject to this buffer. The landscape density score for a parcel is determined by multiplying the length of property frontage along Churton Street by the width of the buffer. Table 6.5.11.4.g illustrates how the landscape density score is calculated.

6.5.11.4.b The landscaping density score calculation takes into consideration whether there is parking located between the building and the buffer, as shown on Table 6.5.11.4.g.

6.5.11.4.c Preservation of existing landscaping is strongly encouraged and credit for preserved materials is greater than credit for new plantings, as indicated on Table 6.5.11.4.h.

6.5.11.4.d An applicant shall provide a landscaping plan and point calculation that demonstrates compliance for the site based on the two tables.

6.5.11.4.e Applicants are encouraged to group plantings within the required buffer to create a more natural appearance.

6.5.11.4.f Landscaping in the buffer need not be continuous. Breaks are expected at perpendicular driveway and sidewalk crossings. Breaks up to 30 feet in width are also allowed to support the grouping of plant material and allow visibility for signage and buildings.

Table 6.5.11.4.g: Landscape density points by site characteristics			
Development option	Buffer formula	Example- 100-foot wide lot	Example – 200-foot wide lot

Building adjacent to buffer	.5 * (length*width)	.5(100 *30) = 1500	.5(200 *30) = 3000
Drive aisle between building and buffer	.6 * (length*width)	.6(100*30) = 1800	.6(200*30) = 3600
Parking and drive aisle between building and buffer	.7 * (length*width)	.7(100*30) = 2100	.7(200*30) = 4200

Table 6.5.11.4.h: Plant Material Points				
Plant Material Type	Planted deciduous	Preserved deciduous	Planted evergreen	Preserved evergreen
Large Tree (species mature height = > 50')	625	900	725	1000
Small Tree (species mature height between 20' and 50')	64	100	70	110
Large Shrub (Species mature height greater than 6' but less than 20')	36	49	40	54
Small shrub (species mature height less than 6')	20	25	22	28

Evergreens are given higher point scores than deciduous materials due to the year-round screening and shading capacity.

Point values may be less than species reported canopy cover areas in landscaping resources because materials planted in urban settings often do not reach their full potential due to limits on soil quality, moisture availability, and fertilizer.

6.5.11.5 Development within Buffer

The following amenities and installations may be allowed by the permit issuing

authority within this buffer if (i) the amenity is available for general public use or (ii) the installation is required by the Town of Hillsborough or other public utility:

6.5.11.5.a Plazas

6.5.11.5.b Sidewalks or walkways

6.5.11.5.c Gardens

6.5.11.5.d Seating areas

6.5.11.5.e Decorative fences or walls not exceeding 4' in height

6.5.11.5.f Freestanding signs otherwise compliant with the ordinance

6.5.11.5.g Underground utilities

6.5.11.5.h Overhead utilities only if in existence at the time of development

6.5.11.6 Maintenance of buffer

The buffer will be inspected at the end of the second growing season following permit issuance and during any subsequent development review for compliance with the South Churton non-residential buffer requirements. The town may pursue enforcement action against any property owner who does not maintain this buffer as allowed in Section 8 *Enforcement*.

6.6 CREATION OF NEW BUILDING LOTS

6.6.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the creation of new building lots in order to protect and preserve the appearance, character, and value of adjacent properties.

6.6.2 APPLICABILITY

All new residential and non-residential lots must meet the following requirements.

6.6.3 NEW LOT REQUIREMENTS

- 6.6.3.1** New lots shall generally have four sides and generally not have more than 8 sides to facilitate the enforcement of setback requirements and ensure that each lot is generally usable for its intended building proposed, unless existing topographic or natural features such as a stream or ridgeline acts as a boundary.
- 6.6.3.2** New building lots shall not have appendages less than twenty (20) feet in width and more than twenty (20) feet in length created to provide street access or to enable the lot to meet minimum lot size or frontage requirements.
- 6.6.3.3** Lots in residential zoning districts must have at least thirty (30) feet of frontage on a public or private street the lot uses for access.
- 6.6.3.4** Unless otherwise approved by the permit issuing authority, all lots shall meet the lot width requirement specified in Section 6.3, *General Dimensional Standards* at the front setback line. The permit issuing authority may waive this requirement during review of a Special Use Permit for a development after consideration of lot depth, lot width, general usability of the

building envelop on the parcel, and compatibility of the proposed lots with existing and proposed neighboring lots.

6.6.4 USABILITY OF LOTS

- 6.6.4.1** New lots created for building purposes must contain a buildable area at least 10 feet wide and at least 10 feet deep after application of setbacks requirements.
- 6.6.4.2** No new lot shall be created for building purposes that contains an area wholly within the required setbacks of opposing lot sides.

6.6.5 DIVERSITY IN SINGLE-FAMILY DETACHED HOME NEIGHBORHOODS

In an effort to prevent monotonous and sterile built environments in areas containing single-family detached dwellings, and to mimic the diverse character of many residential neighborhoods in the planning jurisdiction, variability of lot widths and lot sizes within new developments is encouraged.

- 6.6.5.1** Single-family detached home developments containing 20 or more lots must have at least 3 different lot widths on each straight street section (may be multiple blocks) longer than 400 feet. Contiguous lot widths must vary by at least 10 feet to meet this standard.
- 6.6.5.2** Single-family detached home developments containing 20 or more lots may provide an equal number of lots 10% smaller than the minimum lot size for each lot proposed that is 30% or more larger than the minimum lot size.
- 6.6.5.3** Single-family detached home developments requiring a Special Use Permit may include lots up to 10' narrower than the district minimum standard and/or 10% smaller than the district minimum standard to meet the diversity standard established above and to maximize lot diversity, provided, however, that the average lot width and acreage lot area in the development must meet the district minimum standards.

6.7 DESIGN REQUIREMENTS FOR NEW NON-RESIDENTIAL AND MULTI-FAMILY BUILDINGS

6.7.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the appearance of non-residential construction in order to protect and preserve the appearance, character, and value of adjacent properties. These requirements help create a pedestrian scale environment to encourage walkability and connect people to the built environment.

6.7.2 APPLICABILITY

The following principles will apply to all new non-residential buildings and multi-family buildings containing 5 or more dwelling units. Some of the standards dependent on the building gross square footage. When a numbered standard contains a phrase "On buildings with at least one tenant space 30,000 sf or larger," only the language that follows this phrase applies to larger buildings for that numbered standard. If there is no language regarding building size, the numbered standard applies in all circumstances. Section 6.7.11, *Parking and Circulation, Site Layout*, applies only to buildings without a tenant space 30,000 sf or larger and multi-family buildings containing 5 or more dwelling units.

These requirements are applied during development review. If renovation occurs that is non-

compliant with these standards and such renovation did not require a zoning compliance permit, the town may issue a stop work order or notice of violation to bring the building back into compliance. Subdivision or changes to parcel lines that impact compliance with these requirements but trigger no development will not create an illegal non-conformity and is not sufficient reason to deny a subdivision application.

6.7.2 ARTICULATION

- 6.7.3.1** The facade shall be articulated with bays, recesses and projections, door and window rhythm, columns, piers, and/or varied rooflines to divide the building mass.
- 6.7.3.2** Design elements such as bays, recesses and projections, door and window rhythm, columns, piers, and/or varied rooflines shall be kept consistent along the front façade.

6.7.4 DRIVE-UP WINDOWS, CANOPIES, AND PORTE COCHERES

- 6.7.4.1** Drive-up windows, canopies, and porte cocheres shall be located on the side or rear of the building.
- 6.7.4.2** Drive-up windows, canopies, and porte cocheres shall feature architectural materials and design elements that match the primary building.

6.7.5 FENESTRATION

- 6.7.5.1** Buildings shall not have a blank wall oriented to a street.
- 6.7.5.2** Ground-floor building facades adjacent to existing or proposed public or private streets shall include window and glass door openings comprising a minimum of 40% of ground floor façades and 25% of upper floor facades. On buildings with at least one tenant space 30,000 sf or larger, openings such as windows and doors shall account for a minimum of 30% of the front façade.
- 6.7.5.3** Street level glazing shall be visually transparent, although UV coatings are permitted. Mirrored glass is prohibited. Spandrel and faux glass are permitted where interior views are not possible or feasible due to interior location of equipment, kitchens, production or stock areas, restrooms, and other uses where interior views are not appropriate. Transom windows are encouraged and may be used in meeting the requirements of 6.7.5.2 in these locations to provide natural light to the interior of the structure.
- 6.7.5.4** Windows shall have a vertical-to-horizontal ratio of 1:2 except where storefront glass is employed. Two or more vertically oriented windows may be grouped together provided grouped windows are the same size. This does not apply to buildings with at least one tenant space 30,000 sf or larger.
- 6.7.5.5** Design treatments intended to simulate windows that have been covered or filled in are prohibited. Example below:



6.7.6 MATERIALS

- 6.7.6.1** Changes of building materials shall occur at a change of plane, such as a recess, projection.
- 6.7.6.2** Buildings shall not have material changes at their outside corners.
- 6.7.6.3** Dominant building materials shall consist of wood, brick, stone, fiber cement, pre-cast concrete, ceramic tile, or glass. Concrete block, stucco, EIFS, plywood, metal and vinyl siding are prohibited as exterior finishes. Architectural metal may be used as a secondary building material to accent or complement the dominant building material.

6.7.7 MULTISTORY BUILDINGS

- 6.7.7.1** The first floor shall be architecturally differentiated from upper floors using porches, colonnades, canopies, awnings, storefronts, or other design features.
- 6.7.7.2** The front façade shall be integrated with the overall building architecture. False facades are prohibited.

6.7.8 ORIENTATION AND BUILDING ACCESS

- 6.7.8.1** The primary building access for non-residential and mixed-use buildings shall be oriented toward and clearly identifiable from the street or if located on a corner lot may be oriented toward the corner that is nearest the street intersection. When there is more than one street in the vicinity, staff shall determine which street is applicable to meet the purpose and intent of this standard.
- 6.7.8.2** The primary building access for residential buildings shall be oriented toward and clearly identifiable from the street and the intended residential parking area.
- 6.7.8.3** ADA compliant sidewalks shall be provided between building entrances and public sidewalks.
- 6.7.8.4** ADA compliant handicap ramps shall be provided where sidewalks intersect streets or

parking areas.

- 6.7.8.5** Crosswalks shall be provided where sidewalks intersect streets or parking areas.

6.7.9. POSTS AND COLUMNS

- 6.7.9.1** The proportion of structural elements such as posts, piers and columns shall be appropriately scaled to the weight they appear to be carrying.

6.7.10. ROOF PITCH

- 6.7.10.1** Flat roofs shall be capped by a parapet wall to provide screening of rooftop equipment. The backside of a parapet wall shall not be visible from a street.
- 6.7.10.2** Rooftop equipment shall be screened from view when standing at ground level 20 feet from the structure.

6.7.11 PARKING AND CIRCULATION, SITE LAYOUT

6.7.11.1 Applicability

This section applies to all buildings unless at least one tenant space within a building is 30,000 sf or larger. A building size equal to or exceeding 30,000 sf but divided into smaller tenant spaces, the presence of multiple buildings, multiple primary buildings, or buildings oriented in different directions does not affect applicability. If multiple buildings are considered primary, the requirements will be applied to each building to the extent that such application does not create a clear violation of these requirements for the site overall.

- 6.7.11.2** Primary buildings shall be placed along the right-of-way at the front of lot or immediately behind any allowed parking or circulation areas, sidewalks, and landscape areas.
- 6.7.11.3** On corner lots, primary buildings shall be placed along the right-of-way at front or front corner of the lot or immediately behind any allowed parking or circulation areas, sidewalks, and landscape areas.

6.7.12 SERVICE AREAS AND ACCESSORY BUILDINGS

- 6.7.12.1** Delivery areas shall be located to the side or rear of the building.
- 6.7.12.2** Service bay and garage doors shall be located to the side or rear of the building.
- 6.7.12.3** Solid waste areas shall be constructed primarily of masonry.
- 6.7.12.4** Accessory buildings shall not be located between the front façade of the primary building and the street.
- 6.7.12.5** Accessory buildings shall be architecturally compatible with the primary building.

6.8 DESIGN REQUIREMENTS FOR ALL NEW RESIDENTIAL BUILDINGS

6.8.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare

by regulating the appearance of residential construction in order to protect and preserve the appearance, character, and value of adjacent properties. Where existing conditions such as limited visibility of the building or features make satisfying these requirements unnecessary or non-compliance with the design requirements achieves another town goal, the permit-issuing authority may modify the requirements based on competent evidence provided by the applicant to establish that alternatives provided by the applicant will satisfy the purpose and intent of the design requirements, and will protect the use, enjoyment and value of adjoining properties.

6.8.2 APPLICABILITY

All new single-family detached dwellings in residential developments requiring a Special Use Permit must meet the following general principles.

6.8.3 ENTRANCES

6.8.3.1 The front door shall face the front of the lot.

6.8.4 GARAGES, CARPORTS, AND ACCESSORY STRUCTURES

6.8.4.1 Garage, carport, and other accessory structure entries shall not be located closer to the front lot line than the façade wall which contains the front door.

6.8.4.2 Garages, carports, and accessory structures shall not exceed 40% of the primary structure's building footprint.

6.8.4.3 Garages, carports, and accessory structures shall not be greater in height than the primary structure.

6.8.4.4 Garages, carports, and accessory buildings shall not exceed fifty percent (50%) of the width of the front facade of the primary structure.

6.8.4.5 Detached garages are encouraged.

6.8.5 VARIATION

6.8.5.1 Variation of exterior building materials and exterior façade arrangements from house to house is encouraged to allow easy identification of houses from the street. Excessive variation of façade planes, roof pitches, and building materials on an individual structure is discouraged.

6.9 DRIVEWAY CONNECTIONS

6.9.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring that driveways shall be designed and located so as to minimize the number of conflict points among vehicular movements, to coordinate the location and the alignment of major driveway connections (ingress to or egress from heavy traffic generators such as shopping centers and supermarkets) and roadway intersections on opposite sides of the intersected street, to discourage dangerous vehicular movements, to minimize conflicts with pedestrian traffic, to avoid driveway connections at locations where adequate, safe sight distances cannot be provided, and to ensure

driveway connections are designed to accommodate storm water runoff. The use of cross access easements connecting independent, adjacent developments is encouraged, so as to reduce the number of driveway curb cuts to the public right-of-way.

6.9.2 APPLICABILITY

These requirements shall apply to all development types, except one and two-family dwellings.

Figure 6-4: Driveway Connections



6.9.3 DRIVEWAY REQUIREMENTS

- 6.9.3.1** No driveway shall be located within two hundred fifty (250) feet of the intersection of a public street with an arterial or collector street unless no other site access is legally practicable.
- 6.9.3.2** No drive shall be located closer than twenty-five (25) feet to the right-of-way of any local street intersection. At intersections with traffic signals, the Planning Director shall specify distances from the right-of-way to allow for sufficient stacking of vehicles in the street prior to the driveway location.
- 6.9.3.3** When access is available to a lot from streets of different classifications (e.g., arterial, collector, sub-collector), the driveway will be located so as to provide access to the lot from the street with the lower classification.
- 6.9.3.4** In parking lots where large hourly volumes of entering traffic may be expected, the developer shall provide a setback between pavement edge of the public roadway and the edge of proposed internal drives to accommodate stacking within the parking lot. This setback shall be determined by the Planning Director based on standards required by NCDOT, the Institute of Traffic Engineers, or other recognized standard.
- 6.9.3.5** On curb and gutter streets, the North Carolina Department of Transportation standard concrete driveway ramp shall be used. The Planning Director may allow street type driveway entrances for high volume traffic uses.
- 6.9.3.6** Driveway connections shall be designed to accommodate stormwater to ensure that gravel

does not wash into the public street. Connections which are above the grade of the existing street shall be graded so that drainage is directed into ditches designed to accommodate the drainage, or into the street gutters. The driveway shall be at the same elevation as the existing street across the width of the street right-of-way. If gravel or other materials wash onto the public street, the property owner shall be responsible to remove the material and establish safe conditions.

- 6.9.3.7** Driveways shall be a minimum of one hundred feet (100') apart when access is to a collector or arterial street.
- 6.9.3.8** Driveways shall be clearly defined with the use of curbs and/or landscaping.
- 6.9.3.9** Driveways on opposite sides of the street shall either be offset by at least fifty feet (50') or aligned, unless such standards cannot be met for safety reasons.

6.10 LANDSCAPING (PARKING LOT)

6.10.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the landscaping of parking areas in order to reduce radiant heat from surfaces, reduce glare of automobile lights, minimize stormwater and drainage problems, and protect and preserve the appearance, character, and value of adjacent properties. Where existing conditions such as topography, structures, or other existing features make satisfying these requirements impractical, the permit-issuing authority may modify the requirements based on competent evidence provided by the applicant to establish that alternatives provided by the applicant will satisfy the purpose and intent of the buffer and landscape requirements, and will protect the use, enjoyment and value of adjoining properties.

6.10.2 APPLICABILITY

These requirements shall apply to all development types with the exception of one and two- family dwellings.

6.10.3 LANDSCAPING REQUIREMENTS

- 6.10.3.1** Parking lots shall contain at least 1 shade tree for every seven parking spaces required for the site. These trees shall be located a sufficient distance from existing overhead utility lines to ensure the health and growth of the tree.
- 6.10.3.2** Trees shall be evenly distributed throughout the parking areas and parking perimeter at the required ratio.
- 6.10.3.3** No more than 14 continuous parking spaces shall be allowed without a minimum of 1 landscape island containing a shade tree.
- 6.10.3.4** All planting medians or islands in parking lots shall be at least 10 feet X 10 feet measured from back of curb to back of curb (or pavement edge if the island is not curbed for stormwater purposes). When an island contains one or more shade trees, the island must have at least 300 square feet of unpaved space per shade tree.

- 6.10.3.5** Linear planting strips between the lengths of parking isles are encouraged rather than numerous small tree islands. If a linear strip is used, 15 shrubs (no taller than 3 feet at maturity) per 100 feet of planting strip must be planted in addition to the required trees.
- 6.10.3.6** A minimum 10-foot wide continuous planted median shall be installed in off-street parking areas for every 2 double loaded parking bays exceeding 122 feet in length. Alternative landscaping layouts and arrangements which similarly visually break up large parking areas will be considered by the permit issuing authority.
- 6.10.3.7** Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a structure by a landscaped area at least five (5) feet in width.
- 6.10.3.8** Ground level parking facilities and the ground level of any parking structure shall provide a minimum of 10' planted setback area around parking perimeter, whether along a side street, property line, driveway, or undeveloped portion of the site. Within this setback, an opaque screen or fence to a height of at least 3 feet shall be required when the adjoining land is in residential use or a street.
- 6.10.3.9** In meeting these standards, the retention of existing significant vegetation shall be encouraged. The site plan submitted shall locate and identify all existing and proposed trees and shrubs used for parking standards.
- 6.10.3.10** Landscaping and walkways shall be installed to indicate the preferred travel pattern for pedestrians.
- 6.10.3.11** Landscaping shall be protected from damage by motor vehicles.
- 6.10.3.12** Lot areas not covered with paving, parking, buildings, or walkways shall be landscaped. The preferred surface is grass outside of planting beds although reasonable use of mulch and other materials will be considered.

Figure 6-5: Landscaping (Parking Lot)



6.11 LIGHTING

6.11.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by establishing criteria and standards for providing uniform lighting in outdoor public places where safety and security are concerns, protecting drivers and pedestrians from disabling glare from non-vehicular light sources that shine directly into their eyes and thereby impair safe traverse, protecting neighbors from nuisance glare from poorly aimed or inadequately shielded light sources, and providing lighting which is efficient and compatible with surrounding uses and structures.

6.11.2 APPLICABILITY

Lighting plans shall demonstrate that sufficient light will be available to provide security for property and people using public facilities and common areas after dark. This includes, but is not limited to, roads, driveways, walkways, bikeways, parking lots, and recreational areas.

Lighting plans will be reviewed as part of the review process for all permit applications. Modifications to approved or existing lighting shall be submitted to the Planning Director for review and compliance with applicable requirements.

6.11.3 LIGHTING REQUIREMENTS

Lighting plans shall include a layout of proposed fixture locations (including wall mounted lights, ground mounted lights, and illuminated signs), foot candle data that demonstrate conforming intensities and uniformities; and a description of the equipment (catalog cuts), glare control devices, lamps, mounting heights and means, hours of operation, and maintenance methods proposed. Illumination intensities (lighting contours) may be shown on an independent plan or integrated with other required plans.

6.11.4 MINIMUM LIGHT LEVELS

- 6.11.4.1** Parking areas, whether surface or in a structure, generally will have a minimum light intensity of 1.0 footcandles. A compliant lighting plan may show proposed light contours or light intensity grid with less 1.0 footcandle rating for no more than 25 percent of parking and walkway area if the flexibility prevents the site from exceeding the maximums described in 6.11.5, *Maximum Light Levels*, or the flexibility prevents intensity differences of greater than 5 footcandles across the illuminated portion of the site.
- 6.11.4.2** Interior sidewalks, those sidewalks that connect buildings to parking areas, common areas, of facilities within a development that are likely to be used at night, shall have a minimum light intensity of 0.5 footcandles.
- 6.11.4.3** Minimum lighting levels in this subsection are not required to be met by non-residential uses during non-business hours.

6.11.5 MAXIMUM LIGHT LEVELS

- 6.11.5.1** All outdoor lighting shall be designed and located such that the maximum illumination measured in foot candles at the light source's property line shall not exceed two tenths (0.2) foot candle measured at ground level where the adjoining property is zoned or used for residential purposes.

- 6.11.5.2** Light intensities shall not exceed fifteen (15) foot-candles at any location on the site to limit glare and blinding caused by significant light variations across a site.
- 6.11.5.3** Use Specific Exceptions
The following uses have unique operating or safety concerns related to site lighting and may have light intensities of 30 footcandles under canopies, outdoor sales areas, or in walk-up or drive-up service areas:
- 6.11.5.3.a** banks and financial institutions, including freestanding automated teller machines
 - 6.11.5.3.b** motor vehicle sales
 - 6.11.5.3.c** motor vehicle fuel stations
- 6.11.5.4** Use Specific Exceptions Limited
The light intensity from the excepted areas in 6.11.5.3 must be reduced to the following limits at property lines as described:
- 6.11.5.4.a** 1.0 footcandles at any property line adjoining a public or private right of way if the use across the right of way is not zoned or used for residential purposes.
 - 6.11.5.4.b** 0.2 footcandles at any property line adjoining a public or private right of way if the use across the right of way is zoned or used for residential purposes.
 - 6.11.5.4.c** 0.2 footcandles at any property line adjoining land zoned or used for residential purposes.

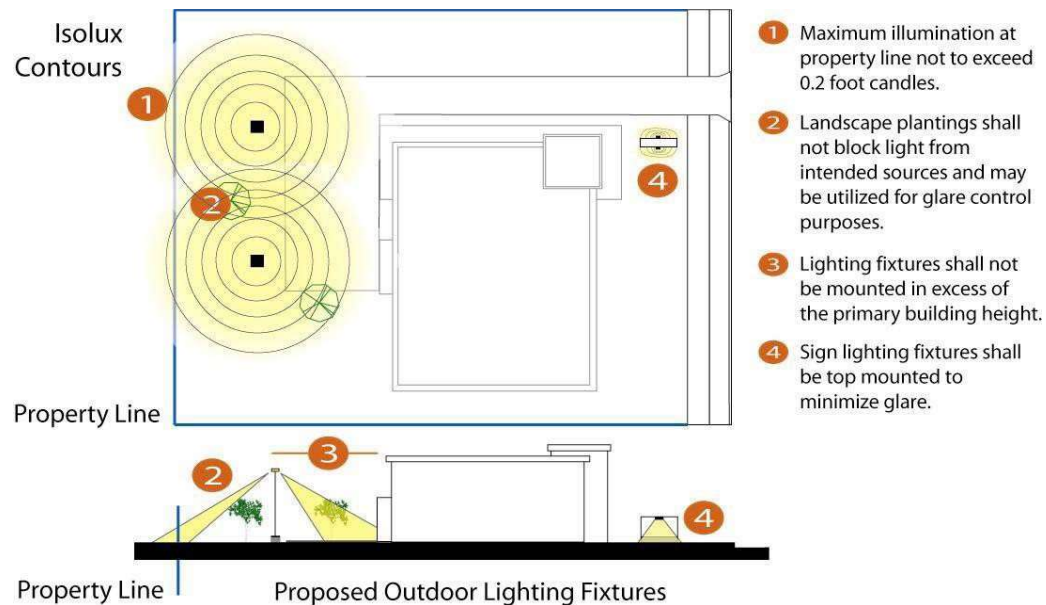
6.11.6 INSTALLATION

- 6.11.6.1** Lighting fixture height shall not exceed twenty-five (25) feet or the maximum height of the main portion of the primary buildings on the site (excluding spires, towers, parapet walls and the like), whichever is taller. For sites where no building is proposed, mounting height for fixtures shall not exceed fifteen (15) feet for non-cutoff type fixtures or twenty-five (25) feet for cut-off type fixtures. This provision shall not apply to outdoor athletic field or outdoor performance area lighting provided the other applicable requirements of this section are met.
- 6.11.6.2** Electrical feeds to lighting standards shall be run underground, not overhead.
- 6.11.6.3** Lighting standards in parking areas shall be protected from vehicle impact with protective barriers or by location. Standards should not be placed so as to obstruct pedestrian movement along sidewalks or medians.
- 6.11.6.4** Directional lighting fixtures used for sign lighting shall be top mounted, so lighting is aimed down. Ground mounted signs with a height of five (5) feet or less may be ground lit, provided that the lights are shielded so as to illuminate the sign only, and the light shall not exceed 10 foot-candles at the sign surface.
- 6.11.6.5** Fixtures shall be of the sharp cut-off type. No portion of the fixture bulb may extend below the fixture housing. Non-cutoff type fixtures may be used if approved by the permit issuing authority with good cause shown during the permit review and such fixtures meet the other standards of this section.
- 6.11.6.6** Unshielded wall fixtures shall not be used as security or general lighting adjacent to

residential uses or to a public right of way.

- 6.11.6.7** Landscape plantings shall be located and maintained so that they do not block light from reaching the intended surfaces.
- 6.11.6.8** The placement of light fixtures should indicate the desired traffic flow and aid pedestrian safety, especially in areas with potential conflict between pedestrians and vehicles.
- 6.11.6.9** Low intensity strings of lights or individual lighting fixtures may be installed in outdoor seating areas to create visibility for nighttime use or as part of window displays oriented toward pedestrians in areas with significant foot traffic. Lights may remain illuminated when the business is closed if the lights are not installed on the same floor level and/or installed within 100 feet of a dwelling. No individual bulb may exceed a lighting intensity of 250 lumens or color temperature of 3000 Kelvin. Fixtures of this type are not subject to the requirements of 6.11.6.5 or 6.11.6.6. This section will be enforced in concert with 6.18.9.5 so the intent of both sections is met.

Figure 6-6: Exterior Lighting Requirements



6.11.7 CONTROL OF NUISANCE AND DISABLING GLARE

- 6.11.7.1** All outdoor lighting, shall be designed, installed and maintained in a manner which does not present a disabling glare hazard to drivers or pedestrians; and all reasonable means shall be taken to prevent projection of nuisance glare onto neighboring properties or into the night sky.
- 6.11.7.2** Lighting for sports and athletic fields must include glare control features and must be designed so that primary illumination is directed onto the play area and ancillary areas such as bleachers, stands, and similar areas. All lighting fixtures for sports fields must be equipped with a glare control package including louvers, shields, or similar devices. The

fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.

6.11.7.3 In reviewing lighting plans, the permit issuing authority may consider the impact of lighting on neighboring properties based on stated hours of operation, topographical differences across sites, and other considerations.

6.11.7.4 Glare control shall be accomplished primarily through the proper selection and application of lighting equipment and shielding. Only after those means have been exhausted shall vegetation, fences, or similar buffer methods be considered for reducing glare.

6.11.8 MAINTENANCE

6.11.8.1 Lighting fixtures used for safety and security lighting shall be maintained in proper working order so as to always meet the requirements of this Ordinance.

6.12 OPEN SPACE

6.12.1 PURPOSE AND INTENT

The intent of this subsection is to conserve open land, including those containing unique and sensitive natural features and/or cultural resources, by setting them aside from development.

6.12.2 APPLICABILITY

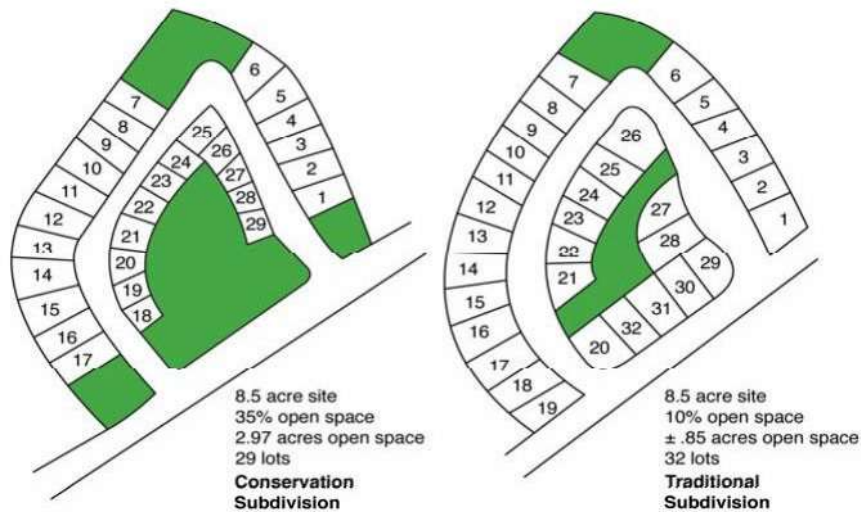
This subsection’s requirements shall apply to any development subject to the following approvals:

- (a) Conservation Subdivision,
- (b) Major Subdivision,
- (c) Special Subdivision subject to a Special Use Permit, and
- (d) Planned Development.

6.12.3 DEDICATION REQUIREMENTS

6.12.3.1 Minimum Amount: Open space dedication/reservation shall be required in the following amounts:

6.12.3.1.a Table: REQUIRED OPEN SPACE DEDICATION/RESERVATION	
Development Type	Required Open Space (Gross Parcel Area)
Conservation Subdivision	35%
Major and Special Subdivision	10%
Planned Development	15%

Figure 6-7: Open Space Illustrations

6.12.3.2 Contiguity: Sixty percent (60%) of required open space shall be in a contiguous tract with a minimum width of 30 feet. "Contiguous" includes any common open space bisected by any residential street.

6.12.3.3 Buffer Adjacent to Public Parks and Greenways: A 30-foot-wide/deep natural buffer shall be provided along a development's common boundary with a public park or greenway. No new structures shall be constructed, and no clearing of trees or understory growth shall be permitted except as necessary for street or trail construction. Where this buffer is unwooded, the applicant shall either:

- (a) install vegetation meeting Type B buffer standards as provide in Section 6.5, Buffers, or
- (b) arrange for buffer management to encourage natural forest succession through "no-mow" policies and periodic removal of invasive plant and tree species.

6.12.3.4 Ownership: Open Space shall generally remain undivided and shall be owned and maintained by a homeowners' association, public or private land trust, or other conservation organization recognized by the Town, County, or State. These ownership options may be combined so different parts of the open space may be owned by different entities.

6.12.4 PERMITTED USES WITHIN OPEN SPACE

All open space shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed as follows. Uses not listed are prohibited.

- 6.12.4.1** Buffers required by subsection 6.5, *Buffers*, and riparian buffers required by paragraph 6.20.16, *Riparian Buffers*.
- 6.12.4.2** Undeveloped, open land in its natural state (e.g., woodland, fallow field or managed meadow).
- 6.12.4.3** Agricultural and horticultural uses, including raising crops or livestock, and associated structures specifically needed to support the use. Residential structures, wholesale and commercial nurseries, and commercial livestock operations involving swine, poultry, mink and other animals likely to produce highly offensive odors are prohibited.
- 6.12.4.4** Pastureland for horses used solely for recreational purposes. Equestrian facilities are permitted but may not consume more than one-half of the minimum required open space land.
- 6.12.4.5** Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.
- 6.12.4.6** Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses. Motorized off-road vehicles, rifle and shooting ranges, and other uses similar in character and potential impact are prohibited.
- 6.12.4.7** Active non-commercial recreation areas, such as playing fields, playgrounds, courts and bikeways, provided such areas do not consume more than one-half the minimum required open space or five acres, whichever is less. Playing fields, playgrounds and courts shall not be located within 100 feet of abutting properties.
- 6.12.4.8** Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the open space.
- 6.12.4.9** Easements for drainage, access, sewer or water lines, or other public purposes.
- 6.12.4.10** Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse open space areas but shall not count toward the minimum required open space.

6.12.5 OPEN SPACE DESIGN REQUIREMENTS

6.12.5.1 Prioritized List of Resources to be Conserved

Open space shall be laid out to ensure an interconnected network of open space is provided. Open space design shall, to the fullest extent possible, incorporate all the following resources if they occur on the tract (listed in order of significance):

1. Stream channels, riparian buffers, 100-year floodplains, wet soils/wetlands, swales, springs and other lowland areas, including adjacent buffer areas required to insure their protection.
2. Significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed with the North Carolina Wildlife Resources Commission.
3. Slopes above 25% in a contiguous area of at least 25,000 square feet.

4. Slopes between 15% and 25%, particularly those adjoining water courses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
5. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands, and wildlife habitats.
6. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.
7. Hedgerows, groups of trees, individual canopy trees and trees of botanic significance.
8. Historic structures and sites.
9. Visually prominent topographic features such as knolls, hill tops and ridges, and scenic viewsheds as seen from public roads (particularly those with historic features).
10. Existing trails connecting the development parcel with other locations in the Town, County or State.

6.12.5.2 Open Space Design Standards

Open space land shall comply with the following design standards:

1. No portion of any non-open space lot or street may be used in meeting the minimum open space requirement.
2. It shall be free of all structures except historic buildings, stone walls and structures related to uses permitted within open space. The permit-issuing authority may grant approval of structures and improvements required for storm drainage, sewage treatment and water supply provided such facilities will not be detrimental to the open space. The acreage of lands required for such uses shall not be credited towards minimum open space acreage requirements for the development parcel unless the land they occupy is appropriate for passive recreational use.
3. Open space parcels must be at least three acres in area and have a length-to-width ratio of at least 4:1 or be at least 75 feet in width. Lands specifically designed as neighborhood greens, playing fields or trail links are not subject to this requirement.
4. It shall be directly accessible to the largest practicable number of lots within the development. Non-adjoining lots shall be provided with safe and convenient pedestrian access to open space land.

5. It shall be suitable for active recreational uses to the extent deemed necessary by the permit-issuing authority, without interfering with adjacent dwelling units, parking, driveways and streets.
6. It shall be interconnected wherever possible to provide a continuous network of open space within and adjoining the development.
7. It shall provide buffers to adjoining parks, preserves or other protected lands.
8. It shall contain pedestrian pathways for use by the residents of the development. Consideration shall be given to providing for public access on such trails if they are linked to other publicly accessible pathway systems within the Town, County or State. Provisions must also be made for access to the open space for land management and emergency purposes.
9. It shall be undivided by public or private streets, except where necessary for proper traffic circulation.
10. It shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a landscaping plan to protect open space resources.
11. It shall be subject to conservation easements duly recorded in the Orange County Register of Deeds office, if required by the permit-issuing authority, for the purpose of preserving the open space for such uses.
12. It shall be consistent with the Comprehensive Plan.

6.12.5.3 Access to Open Space

Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes in accordance with paragraph 6.12.4, *Permitted Uses Within Open Space*, shall be provided to open space land subject to the following requirements:

- (a) Each development shall provide one centrally located access point of 35 feet in width for every 15 lots or dwelling units.
- (b) Access to open space used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.

6.12.6 OPEN SPACE OWNERSHIP

6.12.6.1 Open space shall be protected in perpetuity by one of the following methods:

- (a) A deed of conveyance of title to the Town, County, State or land trust that states the restrictions governing its use, improvement, maintenance and preservation as conditions to the deed of conveyance.
- (b) A deed of conveyance to a homeowners'/property owners' association.
- (c) A permanent conservation or development easement in favor of the Town,

County, State or land trust; a permanent restrictive covenant for conservation purposes; or prohibiting development in favor of the Town, County, State or land trust.

6.12.6.2 If open space is deeded to a homeowners'/property owners' association, a declaration of covenants, conditions and restrictions shall be recorded with the Orange County Register of Deeds office before any property is sold. The recorded document shall include, but not be limited to, all the following:

- (a) The homeowners'/property owners' association shall own, manage, maintain, preserve and govern the open space and restrict its uses to those specified in this ordinance and in the approved development plans;
- (b) The association shall be self-perpetuating and adequately funded by regular assessments, special assessments, or both, to accomplish its purposes, and the association shall be authorized to adjust assessments to meet changing needs;
- (c) The association shall not be dissolved, and shall not dispose of any open space or associated facilities, by sale or otherwise, except to an organization conceived and established to own and maintain the open space and facilities, and the conditions of a transfer shall conform to the approved development plans and be subject to the dedicatory or reservation instrument(s);
- (d) Association membership shall be mandatory for each property owner and successive owner;
- (e) The association shall be responsible for liability insurance and local taxes for the open space and facilities;
- (f) Property owners shall pay their pro rata share of the cost of managing and maintaining the open space, and assessments levied by the association shall be a lien on their property;
- (g) A lien on the open space to secure collections of assessments levied by the homeowners association;
- (h) They shall grant the Town the authority to maintain open, assess the cost of maintenance against the owners of the property jointly and severally, and enforce the recorded covenants, conditions and restrictions;
- (i) Control shall be transferred to the property owners when the development project is 75% complete;
- (j) They shall run with the land in perpetuity; and

- (k) They shall be filed with the approved development plan.

6.13 PARKING, LOADING, AND CIRCULATION

6.13.1 PURPOSE AND INTENT

It is the general intent of this section to provide for off-street parking and loading areas that are safe, convenient and of adequate size for the particular use or uses proposed. No Zoning Compliance Permit or Certificate of Occupancy shall be issued for uses of land, structures, and buildings, either initially, or for a change in use, or expansion of an existing use, unless the off-street parking and loading requirements of this section are met.

6.13.2 APPLICABILITY

The requirements of this section apply to all developments, regardless of zoning designation, with the exception of one and two family detached houses.

6.13.3 OFF-STREET PARKING PROVISIONS

6.13.3.1 General

Except as detailed in Section 6.13.3.2, *Minimum Number of Parking Spaces Required in the CC District*, the required number of off-street parking spaces shall be calculated using Table 6.13.3.4, *Minimum Number of Parking Spaces Required*. When a calculation results in a fraction, fractions of less than 0.5 shall be rounded down and fractions of 0.5 or more shall be rounded up. This same rounding convention applies when calculating allowable reductions or additions as detailed in this section. The term "per employee" shall mean per employee at the time the maximum number of employees is present.

6.13.3.2 Minimum Number of Parking Spaces Required in the CC District

Due to the presence of on street and off-street public parking and the overlapping and walkable nature of areas zoned Central Commercial, the requirement of parking applies by square feet of building within the entire Central Commercial district rather than use by use.

In 2010, the town prepared an inventory of downtown parking. Any off-street parking shown in that inventory (Parking Study, Phase 2) should be retained by the private property owner or replaced space for space if proposed to be built over.

In the CC district, parking shall be provided at a rate of one parking space per 500 square feet of gross floor area. If a property owner proposes to build additional building area or renovate space not occupied during the 2010 inventory, the owner shall provide additional parking to reflect the demand generated by the addition of occupied square footage.

6.13.3.3 Number of Parking Spaces Required outside the CC District

The following Table establishes the formulas to be used to calculate the number of parking spaces required for a particular use. If no specific parking standard is established in this Table for a particular use, the permit issuing authority shall apply the most analogous standard. Some uses identified in this Table are not identified in the Table of Permitted Uses as specific uses. Nevertheless, parking standards for the most similar use shall apply.

6.13.3.3.a Allowable Parking Reductions and Additions

The number generated by applying the parking standard is the required number of parking spaces for a defined use. This constitutes both a minimum and maximum with the following exceptions:

- (a)** Uses requiring 5-20 spaces after rounding are allowed to build up to 2 more or 2 fewer spaces.
- (b)** Uses requiring 21-99 spaces after rounding are allowed to build up to 5 more or 5 fewer spaces.
- (c)** Uses requiring 100 spaces or more after rounding are allowed to build up to 10 more or 10 fewer spaces.

6.13.3.4 Table: MINIMUM NUMBER OF PARKING SPACES REQUIRED

Use Type	Parking Standard
Adult Day Care	1 per staff person plus 1 per 8 clients
Adult Use	1 per 200 sf GFA
Amusement arcade	1 per game table, video game or amusement device
Athletic Field	10 spaces
Artisan Studio	1 per 300 sf GFA
Bank & Financial Institution	1 per 300 sf GFA
Bar	1 per 2 seats
Bed and Breakfast Facility	1 per guest room + 2 for owner's residence
Billiard or Pool Hall	2 per table or lane
Botanical Garden & Arboretum	2 spaces per acre
Brewery	1 space per employee + 1 space per every 2 seats in a public tasting room area + 1 space per 300 sf GFA of any retail/merchandise areas + 1 space per 75 sf GFA of any restaurant areas
Building/Trade Contractor's office	1 per 300 sf GFA
Cemetery	None
Child Day Care	1 per staff person plus 1 per 8 students
Church, Place of worship	1 per 8 seats (minimum) or 1 per 2.5 seats (maximum)
Detention facility	1 per staff person on max employment shift plus 10 visitor spaces
Dwelling: Accessory	2 per primary dwelling plus 1 per bedroom in accessory dwelling
Dwelling: Attached (1-4 units)	2 per unit
Dwelling: Attached (5-19 units)	2 per unit
Dwelling: Attached (20+ units)	2 per unit when the development has 100 or fewer units, 1 per bedroom plus 1 visitor space per 25 units when the development has more than 100 units
Dwelling: attached (20+ units, 100% of units affordable to households making 80% AMI or less at time of construction)	1 space per bedroom and no more than 2 spaces per unit.
Dwelling: Mobile Home A	NA
Dwelling: Mobile Home B	NA
Dwelling: Mobile Home C	NA
Dwelling: Single-family	NA
Electronic Gaming Operation	none
Event Center	1 per 100 sf GFA
Extended Care Facility	0.3 per room
Family Care Home	0.3 per room

6.13.3.4 Table: MINIMUM NUMBER OF PARKING SPACES REQUIRED	
Use Type	Parking Standard
Family Child Care Home	1 per 375 sf GFA
Farm, Bona fide	None
Farmer's Market	1 per 300 sf GFA of public sale area
Flex Space	1 per 300 sf GFA
Food Preparation Business	1 per staff person on max employment shift plus retail standard if direct retail sales allowed
Funeral Home	1 per 4 seats
Gallery/Museum	1 per 1000 sf GFA
Government Facilities & office Buildings	1 per 300 sf GFA
Government Maintenance Yard	1 per 375 sf GFA
Greenhouses/Nursery	1 per 375 sf GFA
Group Care Facility	0.3 per room
Health Care Facility	1 per 250 sf GFA
Health/Fitness Club	1 per 250 sf GFA
Homeless Shelter	1 per 3 residents at maximum capacity
Hospitals	1 per 400 sf GFA
Hotels & Motels	0.8 per room plus 1 per 800 sf public mtg and restaurant space
Junkyard/Outside Storage of Junked or Wrecked Motor Vehicles	1 per employee
Kennels, Boarding	1 per 300 sf GFA
Library	1 per 300 sf GFA
Mail Order Houses	1 per employee plus 3 visitor spaces
Manufacturing Complex	1 per employee plus 3 visitor spaces
Meeting Facility	1 per 6 seats or 1 per 30 sf GFA if no permanent seats
Micro-brewery	1 space per employee + 1 space per every 2 seats in a public tasting room area + 1 space per 300 sf GFA of any retail/merchandise areas + 1 space per 75 sf GFA of any restaurant areas
Mobile Home Park	2 spaces per dwelling unit, plus 1 visitor space per 5 units
Motor Vehicle Fuel Station	1 per 300 sf GFA of building

6.13.3.4 Table: MINIMUM NUMBER OF PARKING SPACES REQUIRED	
Use Type	Parking Standard
Motor Vehicle Maintenance, & Service	1 per 375 sf GFA
Motor Vehicle Repair	1 per 375 sf GFA
Motor Vehicle Sales & Rentals	1 per 375 sf GFA
Office operations	1 per 250 sf GFA
Offices and professional services	1 per 250 sf GFA
Outlet sales	1 per 300 sf GFA
Park, Athletic or Community	Facility requirements
Park, Cultural or Natural	4 per developed acre plus facility requirements
Park, Neighborhood	None
Park and Ride Facility	None
Parking as Principal Use, Surface or Structure	None
Performance Facility	1 per 6 seats or 1 per 30 sf GFA if no permanent seats
Personal service business	1 per 250 sf GFA
Personal Vehicle Sales	1 per 375 sf GFA
Petroleum Products (storage & distribution)	1 per employee
Postal and Parcel Delivery Services	1 per employee plus 1 per 250 sf of public access area
Processing Facility	1 per employee plus 3 visitor spaces
Public Safety Services	1 per 250 sf GFA
Public Utilities	1 per employee
Recreational Facilities	Broken out by type
Research Facility	1 per employee plus 3 visitor spaces
Restaurant	1 per 75 sf GFA
Retail sales/rentals of goods with outside display/storage of merchandise	1 per 300 sf GFA
Retail sales/rentals of goods within wholly enclosed structure	1 per 300 sf GFA
School: Art & Music	1 per 4 students
School: Dance, Martial Arts	1 per 4 students
School: Elementary, Middle & Secondary	2.5 per classroom
School: secondary	1 per 4 students
School: Higher Education	1 per 4 students
School: Low Impact	2.5 per classroom
School: Vocational	1 per 200 sf
Skating Rink	5 per 1000 sf GFA
Storage & Warehousing: Inside building, excluding explosives & hazardous wastes	1 space per employee plus 3 visitor spaces

6.13.3.4 Table: MINIMUM NUMBER OF PARKING SPACES REQUIRED

Use Type	Parking Standard
Storage & Warehousing: Outside	1 space per employee plus 3 visitor spaces
Storage & Warehousing: Self	1 per employee plus 2 customer spaces plus 1 space per 20 units for facilities with interior access only
Swimming pool	1 per 100 sf of pool area
Telecommunication Tower, 200' or taller	1 per service employee
Telecommunication Tower, less than 200' tall	1 per service employee
Tennis/Squash/Racquetball	2 spaces per court
Transit Passenger Terminal	1 per employee plus spaces required to satisfy projected peak parking needs
Transmission Lines	None
Vehicle Restoration	1 per 375 sf GFA
Veterinarian/Animal Hospital	1 per 300 sf GFA
Water and sewer pump stations	None
Wholesale sales, indoor	1 per 375 sf GFA
Wholesale sales, with outdoor storage/display	1 per 375 sf GFA

6.13.4 JOINT PARKING FACILITIES

The required parking for multiple, separate and complementary uses located in any zoning districts may be combined in one lot, subject to the following requirements:

- 6.13.4.1** The off-street parking spaces allotted to each use shall be shown on the application for a Zoning Compliance Permit.
- 6.13.4.2** The distance between the primary entrance of the structure housing the use to be served and the farthest allotted parking space for that use shall not exceed one thousand three hundred twenty (1,320) feet.
- 6.13.4.3** Spaces assigned to one use may not be assigned to another use at the same time or any other time, except that upon the presentation of competent evidence demonstrating the adequacy of shared parking facilities, up to one-half of the parking spaces required for uses such as, but not limited to, churches, theatres, and assembly halls, the peak attendance at which is expected to be outside typical business hours (Monday through Friday 8 a.m. to 5 p.m.) may be assigned to another use which will experience peak usage during the day. The Planning Director shall make the determination relative to peak usages.
- 6.13.4.4** Cross easements shall be executed and recorded at the Orange County Register of Deeds to ensure the continued availability of the parking facility to the use it serves.

6.13.5 OFF-SITE PARKING

The permit issuing authority may allow off-site parking to account for up to 50% of the required parking for any single use if sufficient operational specificity and rationale are provided during the permit review including some of the following:

- 6.13.5.1** Public transit service is available between the remote parking site and the use(s) it is intended to serve.
- 6.13.5.2** Private shuttle or transit or valet is available between the remote parking site and the use(s) it is intended to serve.
- 6.13.5.3** Private shuttle or transit service is provided for customers of the business, bringing them to and taking them away from the site at their request or scheduled intervals.
- 6.13.5.4** Shared parking with another facility utilizing spaces not needed to meet the second facility's requirements under this Ordinance.
- 6.13.5.5** Leasing of off-site spaces not allocated to another use under this Ordinance.

6.13.6 COMPACT PARKING SPACES

In parking lots with more than twenty-five (25) parking spaces, compact car spaces may constitute up to twenty-five (25) percent of the total number of spaces provided. Compact spaces shall be clearly and permanently designated on the site plan and in parking areas.

6.13.7 OFF-STREET PARKING SETBACK AND LOCATION

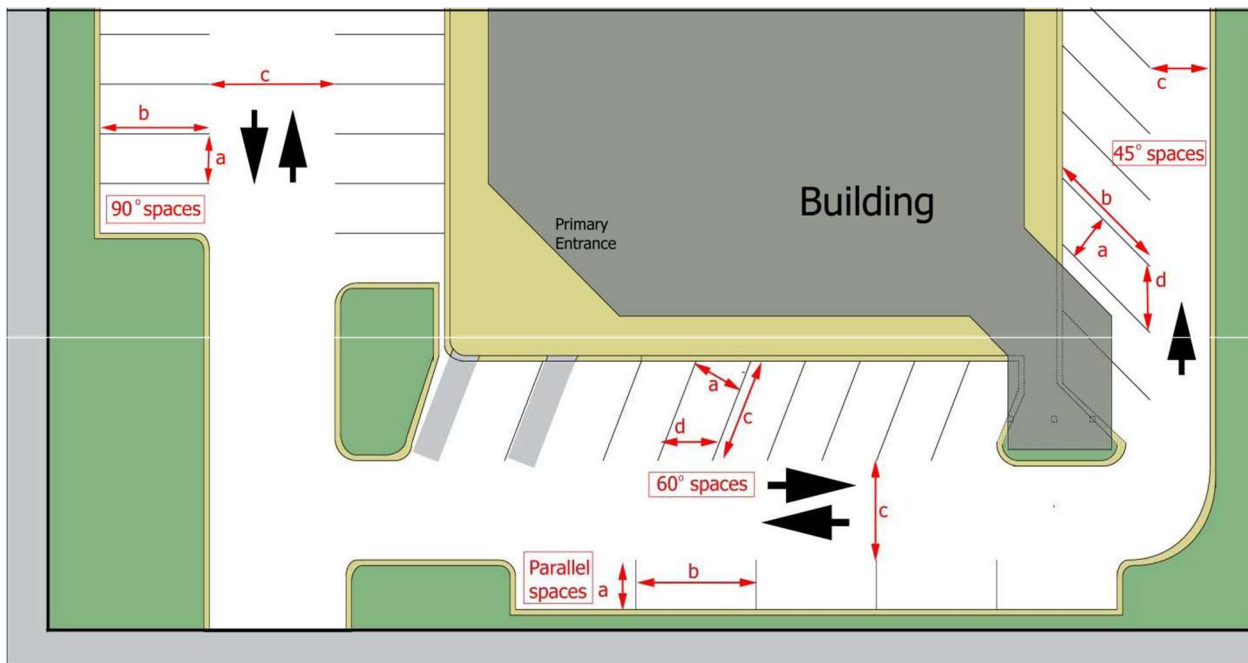
- 6.13.7.1** Parking spaces are considered structures for the purpose of determining setback requirements as described in Section 6.3, *General Dimensional Standards*
- 6.13.7.2** All parking required by this ordinance shall be located on the parcel where the use that required the parking is located with the following exceptions:
 - 6.13.7.2.a** Uses that are specifically approved to use on street parking to meet the ordinance requirements or uses occupying buildings in the CC district that existed on the date of this ordinance and have not been enlarged.
 - 6.13.7.2.b** Uses that have approved joint parking arrangements.
 - 6.13.7.2.c** Uses that have approved off-site parking arrangements
- 6.13.7.3 Access to Off-Street Parking**
 - 6.13.7.3.a** Adequate vehicle accommodation area shall be provided for each parking space in accordance with the standards of the American Society of Highway and Traffic Officials.
 - 6.13.7.3.b** Common driveways with necessary cross-access easements to parking facilities on adjacent properties shall be required where practicable, giving consideration to the nature of the site and the traffic patterns on adjacent streets.
 - 6.13.7.3.c** Access drives or driveways to off-street parking spaces or lots shall conform to the design standards of the North Carolina Department of Transportation or this Ordinance, whichever is stricter.

6.13.8 OFF-STREET PARKING GEOMETRIC REQUIREMENTS

Table 6.13.8 details the minimum geometric requirements for different types of off-street parking spaces, which are shown in Figure 6-8:

Table 6.13.8: Off-Street Standard Parking Geometric Requirements				
Parking Angle	Stall Width	Stall Depth	Aisle Width Two-way traffic	Aisle Width One-way traffic
x	a	b	c	c
90	9' (8')	18' (16')	25' (22')	25
60	9' (8')	20' (16')	20' (18')	16
45	9' (8')	19' (16')	19' (18')	12
0 (parallel)	9' (8')	23' (20')	20' (20')	12
Dimensions given are for standard parking spaces, compact space dimensions are in parentheses.				
The permit-issuing authority may adjust these requirements to accommodate compact parking, parking of different angles, expected traffic volumes, or Fire Code requirements.				

Figure 6-8: Parking stall measurements



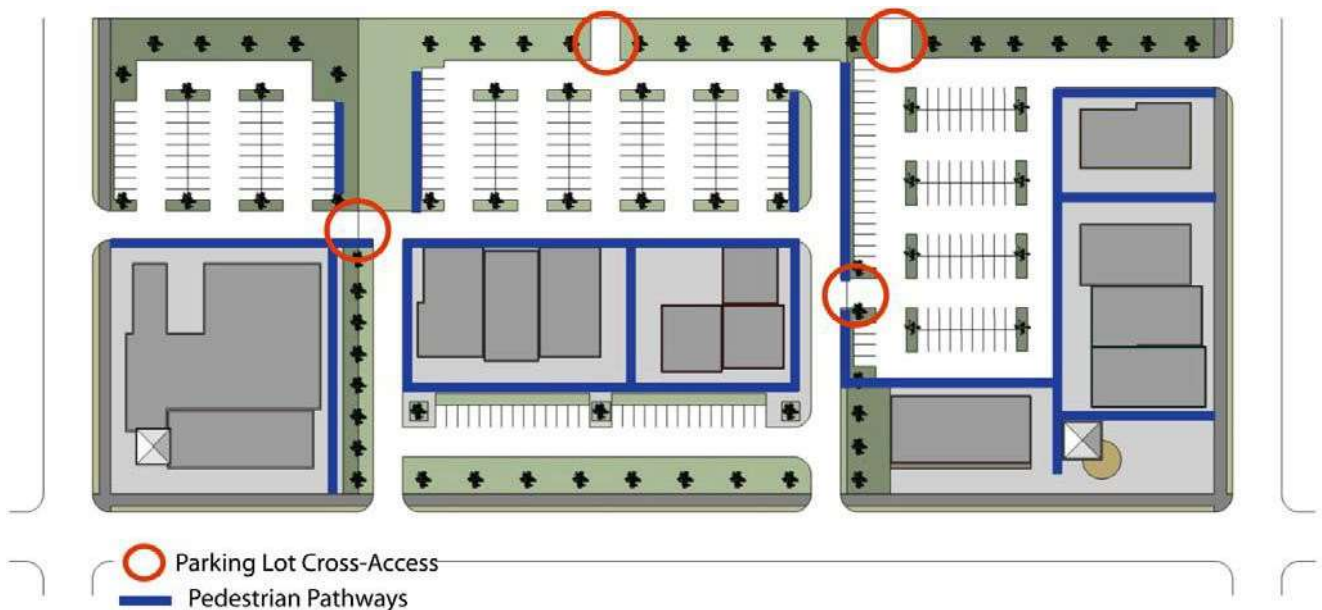
6.13.9 OFF-STREET PARKING DESIGN REQUIREMENTS

- 6.13.9.1** One row of parking spaces and one drive aisle, which together shall not exceed 44 feet in width, may be located between the primary building(s) and the street right-of-way. All other off-street parking areas shall be located to the side or rear of the primary building(s) behind the front façade(s).
- 6.13.9.2** Except as otherwise allowed under subsection 6.13.9.1, visual impact of parking areas shall

be reduced by locating the parking areas away from rights-of-way.

- 6.13.9.3** Surface parking shall not be located at street corners.
- 6.13.9.4** Parking areas shall be broken up into groups of no more than 14 contiguous spaces separated by landscaped areas. Parking areas shall be divided into a series of lots that are interconnected but separated by planted areas.
- 6.13.9.5** Adjacent parking lots shall be connected by cross access easements to provide shared parking areas whenever possible.
- 6.13.9.6** Off street parking shall not be located along any street frontage that also has on- street parking.
- 6.13.9.7** All off-street parking spaces, vehicle accommodation areas, and access areas shall be surfaced with an all-weather paving material, such as asphalt, and maintained in a safe, sanitary, and neat condition. The use of innovative and pervious surfaces for the use of parking is encouraged. Parking is not permitted on landscaped areas.
- 6.13.9.8** Off-street parking spaces shall be designed to prevent interference of parked vehicles with travel lanes, walkways, public property, or other private property by means of walls, curbs, wheel stops, or other appropriate means.
- 6.13.9.9** All parking areas shall be properly maintained by the owner of the property.

Figure 6-9: Off-Street Parking Design Requirements



- 6.13.9.10** See Section 6.10 for Landscaping (Parking Lot).

6.13.10 OFF-STREET LOADING REQUIREMENTS

- 6.13.10.1** Industrial and commercial structures shall provide space for off-street loading of vehicles, unless the applicant for such use can demonstrate that such space is not required for the use.

- 6.13.10.2** The requirements for off-street loading are in addition to the requirements for off-street parking. Space designated for compliance with off-street parking requirements shall not be used to comply with the requirements for off-street loading space and vice versa.
- 6.13.10.3** An off-street loading space, for the purposes of this section, shall have a minimum width of twelve (12) feet, a minimum length of sixty (60) feet and a vertical clearance of sixteen (16) feet above the finished grade of the space.
- 6.13.10.4** Each off-street loading space shall be located and arranged so that a semi-trailer truck can use it safely.

6.13.11 TABLE: USE TYPE AND OFF-STREET LOADING SPACES

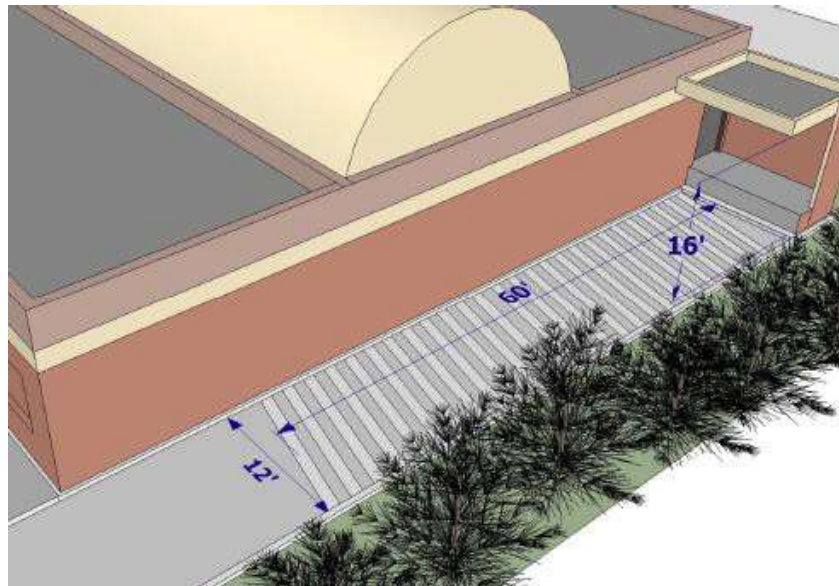
Each new use shall provide the following off-street loading spaces:

USE TYPE	MINIMUM LOADING REQUIREMENTS
Retail Business	One (1) space for each five thousand (5,000) square feet of floor space or major fraction thereof; no more than three (3) spaces are required
Wholesale and Industrial Uses	One (1)

6.13.12 DESIGN REQUIREMENTS

- 6.13.12.1** Delivery areas, loading docks, and service areas shall be located behind the primary building.
- 6.13.12.2** Delivery areas, loading docks, and service areas shall be screened from view so as not to be visible from the street

Figure 6-10: Off-Street Loading Requirements



6.14 PUBLIC SCHOOL FACILITIES, ADEQUACY

6.14.1 PURPOSE AND INTENT

The purpose of this ordinance is to ensure that, to the maximum extent possible, approval of new

residential development will become effective only when it can reasonably be expected that adequate public school facilities will be available to accommodate such new development.

6.14.2 CERTIFICATE OF ADEQUACY OF PUBLIC SCHOOL FACILITIES

- 6.14.2.1** Subject to the remaining provisions of this section, no approval under this ordinance of a subdivision preliminary plat, minor subdivision final plat, Site Plan, Or Special Use Permit for a residential development shall become effective unless and until Certificate of Adequacy of Public School Facilities (CAPS) for the project has been issued by the School District.
- 6.14.2.2** A CAPS shall not be required for a general use or conditional use rezoning or for a master land use plan. However, even if a rezoning or master plan is approved, a CAPS will nevertheless be required before any of the permits or approvals identified in 6.14.2.1 shall become effective, and the rezoning of the property or approval of a master plan provides no indication as to whether the CAPS will be issued. The application for rezoning or master plan approval shall contain a statement to this effect.
- 6.14.2.3** A CAPS must be obtained from the School District. The School District will issue or deny a CAPS in accordance with the provisions of the Memorandum of Understanding among Orange County, Hillsborough, and the Orange County School District dated July 14, 2003.
- 6.14.2.4** A CAPS attaches to the land in the same way that development permission attaches to the land. A CAPS may be transferred along with other interests in the property with respect to which such CAPS is issued but may not be severed or transferred separately.

6.14.3 SERVICE LEVELS

This section describes the service levels regarded as adequate by the parties to the Memorandum of Understanding described in 6.14.2.3 with respect to public school facilities.

- 6.14.3.1** As provided in the Memorandum of Understanding among Orange County, Hillsborough, and the Orange County School District, adequate services levels for public schools shall be deemed to exist with respect to a proposed new residential development if, given the number of school age children projected to reside in that development, and considering all the factors listed in the Memorandum of Understanding, projected school membership for the elementary schools, the middle schools, and the high school(s) within the Orange County School District will not exceed the following percentages of the building capacities of each of the following three school levels:

6.14.3.1.a Elementary school level 105%

6.14.3.1.b Middle school level 107%

6.14.3.1.c High school level 110%

For purposes of this ordinance, the terms "building capacity" and "school membership" shall have the same meaning attributed in the Schools Adequate Public Facilities Memorandum of Understanding among the Town of Hillsborough, Orange County and the Orange County Board of Education.

6.14.4 EXPIRATION OF CERTIFICATES OF ADEQUACY OF PUBLIC SCHOOL FACILITIES

A CAPS issued in connection with approval of a subdivision preliminary plat, minor subdivision final plat, Site Plan, Or Special Use Permit shall expire automatically upon the expiration of such plat, plan, or permit approval.

6.14.5 EXEMPTION FROM CERTIFICATION REQUIREMENT FOR DEVELOPMENT WITH NEGLIGIBLE STUDENT GENERATION RATES

In recognition of the fact that some new development will have a negligible impact on school capacity, a CAPS shall not be required under the following circumstances:

6.14.5.1 For residential developments restricted by law and/or covenant for a period of at least thirty years to housing for the elderly and/or adult care living and/or adult special needs.

6.14.5.2 For residential developments restricted for a period of at least thirty years to dormitory housing for university students.

6.14.5.3 If the use of a development restricted as provided above changes, then before a permit authorizing such change of use becomes effective, a CAPS must be issued just as if the development were being constructed initially.

6.14.6 APPLICABILITY TO PREVIOUSLY APPROVED PROJECTS AND PROJECTS PENDING APPROVAL

6.14.6.1 Except as otherwise provided herein, the provisions of this ordinance shall only apply to applications for approval of subdivision preliminary plats, minor subdivision final plats, Site Plans and Special Use Permits that are submitted for approval after the effective date of this ordinance.

6.14.6.2 The provisions of this ordinance shall not apply to amendments to subdivision preliminary plats, minor subdivision final plats, Site Plans, or Special Use Permit approvals issued prior to the effective date of this ordinance so long as the approvals have not expired and the proposed amendments do not increase the number of dwelling units authorized within the development by more than five percent or five dwelling units, whichever is less.

6.14.6.3 The Town Board shall issue a special exception to the CAPS requirement to an applicant whose application for approval of a subdivision preliminary plat, minor subdivision final plat, Site Plan or Special Use Permit covers property within a planned unit development or master plan project that was approved prior to the effective date of this ordinance, if the Town Board finds, after an evidentiary hearing, that the applicant has (1) applied to the School District for a CAPS and the application has been denied, (2) in good faith made substantial expenditures or incurred substantial binding obligations in reasonable reliance on the previously obtained planned unit development or master plan approval, and (3) would be unreasonably prejudiced if development in accordance with the previously approved development or plan is delayed due to the provisions of this ordinance. In deciding whether these findings can be made, the Town Board shall consider the following, among other relevant factors:

- 6.14.6.3.a** Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities which were designed to serve or to be paid for in part by the development of portions of the planned unit development or master planned project that have not yet been approved for construction.
 - 6.14.6.3.b** Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities that directly benefit other properties outside the development in question or the general public.
 - 6.14.6.3.c** Whether the developer has donated land to the School District for the construction of school facilities or otherwise dedicated land or made improvements deemed to benefit the School District and its public school system.
 - 6.14.6.3.d** Whether the developer has had development approval for a substantial amount of time and has in good faith worked to timely implement the plan in reasonable reliance on the previously obtained approval.
 - 6.14.6.3.e** The duration of the delay that will occur until public school facilities are improved or exist to such an extent that a CAPS can be issued for the project, and the effect of such delay on the development and the developer.
- 6.14.6.4** The decision of the Town Board involving a special exception application under Section 6.14.6.3 is subject to review by the Orange County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after a written copy of the decision of the Town Board is delivered to the applicant and every other party who has filed a written request for such copy with the Clerk to the Town Board at the time of its HEARING on the application for SPECIAL exception. The written copy of the decision of the Town Board may be delivered either by personal service or by certified mail, return receipt requested.
- 6.14.6.5** The Mayor or any Board member temporarily acting as Mayor may, in his or her official capacity, administer oaths to witnesses in any hearing before the Town Board concerning a special exception.

6.14.7 APPEAL OF SCHOOL DISTRICT DENIAL OF A CAPS

The applicant for a CAPS which is denied by the School District may, within 30 days of the date of the denial, appeal the denial to the Town Board. Any such appeal shall be heard by the Town Board at an evidentiary hearing before it. At this hearing the School District will present its reasons for the denial of the CAPS and the evidence it relied on in denying the CAPS. The applicant appealing the denial may present its reasons why the CAPS application should have, in its view, been approved and the evidentiary basis it contends supports approval. The Town Board may (1) affirm the decision of the School District, (2) remand to the School District for further proceedings in the event evidence is presented at the hearing before the Town Board not brought before the School District, or (3) issue a CAPS. The Town Board will only issue a CAPS if it finds that the CAPS should have been issued by the School District as prescribed in the Memorandum of Understanding among the School District, Orange County and the Town. A decision of the Town Board affirming the School District may be appealed by the applicant for a CAPS by proceedings in the nature of certiorari and as prescribed for an appeal under Section 6.14.6.4.

6.14.8 INFORMATION REQUIRED FROM APPLICANTS

The applicant for a CAPS shall submit to the School District all information reasonably deemed necessary by the School District to determine whether a CAPS should be issued under the provision of the Memorandum of Understanding between the Town Board, Orange County, and the School District. An applicant for a CAPS special exception or an applicant appealing a CAPS denial by the School District shall submit to the Town Board all information reasonably deemed necessary by the Town Board to determine whether a special exception should be granted as provided in Section 6.14.6.3 or for the HEARING of an appeal of a School District denial of a CAPS as provided in Section 6.14.7, *Appeal of School District Denial of a CAPS*. A copy of a request for a CAPS special exception or of an appeal of a School District denial of a CAPS shall be served on the superintendent of the School District. Service may be made by personal delivery or certified mail, return receipt requested.

6.15 RECREATION SITES

6.15.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the dedication of a portion of land for the purpose of providing recreation space and/or equipment in accord with the Town of Hillsborough Parks and Recreation Master Plan.

6.15.2 APPLICABILITY

Every development proposal containing 5 or more residential units, whether attached or detached, shall include dedication of a portion of the land for public recreation to serve the leisure needs of the residents of the development.

If a development is proposed in a location recommended for recreation improvements in the adopted Parks and Recreation Master Plan or adopted small area plan, the development plan shall indicate the extent to which the proposal fulfills the intent of the adopted plan.

6.15.3 CALCULATION OF REQUIRED AREA

The applicant shall provide land for recreation, provide improvements for recreation, provide fees in lieu of land and improvements, or provide a combination of the above according to the following:

- 6.15.3.1** At least one thirty fifth (1/35) of an acre (.029 acres) shall be dedicated for each dwelling unit shown in the plan, or
- 6.15.3.2** Detached dwelling units shall be assigned 12 recreation points per dwelling. Points for each attached dwelling unit based on the number of bedrooms per units shown in the plan shall be required for recreational improvements according to Table 6.15.4; or
- 6.15.3.3** Fees in lieu of dedication of recreational area and improvements may be paid according to Section 6.15.9, *Payments in Lieu of Dedication*, for each dwelling unit shown in the subdivision plan; or
- 6.15.3.4** A combination of the three above methods may be used to satisfy the recreational dedication requirements, provided, however, that the final approval of the applicant's plan shall at all times remain with the permit issuing authority.

6.15.4 TABLE: RECREATION POINTS AND ATTACHED DWELLING UNITS	
Dwelling Units	Minimum Points Required
One-bedroom unit	6.0
Two-bedroom units	9.5
Three or more bedrooms	12

In the computation of recreational requirements: four hundred (420) points shall be deemed to equal one (1) acre; and, when calculating a combination of the above, the recreational space cannot be utilized more than once (for example, a swimming pool which equals 356 points cannot use its 768 square feet of land in the acreage calculation).

6.15.5 CHARACTERISTICS OF REQUIRED AREA

6.15.5.1 Site Suitability for Active Recreation Areas

6.15.5.1.a Land provided or dedicated for active recreational purposes shall be of a character, slope and location suitable for use as play areas, tennis courts, multi-purpose courts, picnic areas, ball fields and other similar recreation uses.

6.15.5.1.b Active recreation areas shall be located on land that is relatively flat (0 to 7 1/2% slopes), free of wetlands and/or flood plains, free of easements for public utility transmission lines, and otherwise capable of accommodating active recreation uses.

6.15.5.1.c Play equipment suitable for children under twelve shall comprise at least five (5) percent of the total points required.

6.15.5.2 Site Suitability for Passive Recreation Areas

Land provided or dedicated for passive recreation and open space purposes shall be of a character, slope and location suitable for use for walking, jogging, reading and similar quiet activities, and the preservation of natural features and cultural resources such as steep slopes, rock outcrops, native plant life and wildlife cover, nature woodlands and water resources.

6.15.5.3 Location

Land dedicated for recreation purposes shall be located so as to serve the needs of the immediate residents of the subdivision. Recreation areas shall be centrally located so as to provide relatively easy accessibility to all residents of the subdivision; provided, however, recreation areas may be approved in other locations where land more suited for recreation purposes due to shape, level slopes and/ or dry soil conditions is present.

6.15.5.4 Unity

Land dedicated for recreation purposes shall be a single lot except where it is determined that two (2) or more lots are suited to the needs of a particular subdivision. The Planning Board may recommend, and the Town Board may require, the dedication of a path connecting two or more recreation areas, in addition to the land required in Section 6.15.3, *Calculation of Required Area*.

6.15.6 SITE IMPROVEMENTS

Private recreation facilities either required or provided at the option of the applicant, shall meet the standards for site improvements contained herein. When choosing improvements for a recreational area, the anticipated characteristics and needs of the residents/businesses shall be considered in conjunction with the size of the development, any physical constraints posed by the site, and the availability of other improvements within the same general area as the subdivision. As an example, the existence of a multi-purpose court in an adjacent, existing subdivision and the availability of the facility for use by residents of the proposed subdivision may indicate to the applicant that another facility, such as a tennis court, would be more appropriate. Recreation facilities which are suitable for various age groups include but are not limited to those shown on the following pages. Trash receptacles shall be provided for all recreational areas regardless of the number and type of other improvements located thereon.

In addition to land provided or dedicated for active recreation purposes, sufficient area shall be provided to meet off-street parking requirements for the proposed improvements as shown in Table 6.13.3.5, *Minimum Number of Parking Spaces Required*.

6.15.7 POINTS SYSTEM

Active recreation areas shall be easily visible from and have direct access to public street(s) and shall be designated as such on preliminary and final plats.

Active recreation areas and facilities shall be provided to such extent that the sum total of recreation points assigned to each recreational area and facility in table 6.15.7.1 equals or exceeds the number of recreation points required in that development in accordance with the provisions of this section.

For purposes of this subsection, a recreation point is a unit of measurement that allows various types of recreational areas and facilities to be compared to one another. The principal criterion upon which recreation points are assigned to various facilities is the cost associated with the development of such facilities. The following table establishes the recreation points assignable to the facilities listed. Points for facilities not included on the table below shall be determined by the permit issuing authority.

Active recreational facilities and areas should be located throughout the development so that they can be reached safely and easily by their anticipated users. Such facilities and areas must be on land that is suitable for the use intended, have a minimum of twelve hundred (1200) square feet per area, and be sufficiently buffered to minimize the impacts on adjacent residences.

Table 6.15.7.1 – Recreation Points by facility type

Facility	Points Per SF	Minimum requirements
Multipurpose Field/ festival lawn	0.01	less than 5% slope, turf surface, min 20,000 sf
Sports Field (baseball/football/soccer)	0.01	turf surface, perimeter fence, backstops, goals as appropriate
Community garden	0.01	perimeter fence, water source, min 5,000 sf
Dog park	0.01	perimeter fence, water source, min 10,000 sf
Volleyball Court	0.01	
Multipurpose trail - natural surface	0.01	Mulch or Chapel Hill gravel. Minimum 5-foot surface width. Available for public use. Points calculated by linear feet
Multipurpose trail - paved surface	0.02	Asphalt. Minimum 8-foot surface width. Available for public use. Points calculated by linear feet
Swimming Pool Patio	0.02	
Fitness Station	0.02	
Hard Surface Court (tennis/pickleball/basketball)	0.1	perimeter fence, sized for intended sport
Shelter/gazebo/covered space	0.2	
Amphitheater	0.2	available for public use
Water feature/natural pond	0.2	cannot be part of the stormwater management system
Play Equipment	0.3	
Natural Play areas/equipment	0.35	
Swings	0.35	
Swimming Pool	0.4	
Skate Park	0.4	available for public use
Splash Park	0.4	available for public use
Clubhouse	0.5	

6.15.7.2 RECOGNITION OF TOWN PRIORITIES

The town has established recreation facility priorities in response to requests and current lack of facilities. Any development awarded points under this section will not be deemed out of compliance with this provision if the town amends the list or discontinues the double point system. Any development installing priority improvements will receive double the points noted in table 6.15.7.1 for the priority item provided. The Parks and Recreation Board will review the priority facility list annually in January and adopt a revised list.

6.15.8 METHOD OF PROVISION OR DEDICATION

Land dedicated for public recreation area shall be designated on both the preliminary and final plat(s) of the development and must be dedicated to an appropriate unit of local government. Determination of the appropriate unit of local government shall be made by the permit issuing

authority. The Town Board must formally accept any dedication offered or required before the dedication is deemed final. Acceptance of the dedication may be one in trust if deemed appropriate by the Town Board.

Land provided for private recreation purposes must be conveyed to a property owners' association subject to covenants and easements to be approved by the permit issuing authority and which provide for the continued maintenance and control of the recreation area in a manner which assures its continuing use for its intended purpose. The formal declaration of covenants and restrictions shall be recorded in the Register of Deeds Office.

6.15.9 PAYMENTS IN LIEU OF DEDICATION

Any applicant required to dedicate or provide recreation area pursuant to this Ordinance may, with the approval of the permit issuing authority, make a payment in lieu of dedication or make a combination of land dedication and payment. Before approving a payment in lieu of dedication, the permit issuing authority shall find that no recreation sites have been designated on the Master Parks and Recreation Plan for the property in question.

The amount of a payment in lieu of dedication shall equal the number of acres required to be dedicated multiplied by the fair market value of the land to be dedicated. Fair market value shall be determined by dividing the tax appraisal of the property at last re-evaluation by the current year assessment ratio.

Payment in lieu of dedication shall be made at the time of final plat approval or within one year of approval of the construction drawings, whichever occurs first. All monies received by the Town of Hillsborough pursuant to this section shall be used only for the acquisition and/or development within the same park district as shown in the Master Parks and Recreation Plan of land for a public park facility. The Town Board has the authority to sell land dedicated pursuant to these provisions, provided that the proceeds of any such sale shall be used solely for the acquisition and/or development of other recreation or park sites within the same park district.

Developments within the extraterritorial jurisdiction and those with less than twenty (20) dwellings will be encouraged to pursue payment in lieu of dedication if they wish provide public ownership of any required recreational facilities due to the town's inability to maintain facilities outside the city limits or in small installations.

6.16 SCREENING

6.16.1 PURPOSE AND INTENT

It is the general intent of this section to provide for screening of utilities and mechanical equipment that may have adverse impacts on residential and pedestrian areas. Non-residential developments require service areas to accommodate utilities, waste handling, air handling, and supplementary power. This section of the Ordinance provides guidance on reducing any adverse impacts while still maintaining convenience and walkability. Buffers between different zoning districts are addressed in Section 6.5, *Buffers*.

6.16.2 APPLICABILITY

Where non-residential development is adjacent to residentially zoned or used property or adjacent

to areas that encourage pedestrian activity or access, the applicant shall address the potential adverse impacts of service areas to the residential and pedestrian uses.

The permit issuing authority shall consider the potential impacts including, but not limited to, the following on adjacent residents and pedestrian areas:

- 6.16.2.1** Dumpsters and recycling collection areas
- 6.16.2.2** Air handling equipment
- 6.16.2.3** Supplementary power
- 6.16.2.4** Electric Utilities and Transformers
- 6.16.2.5** Phone, Cable and other utility services
- 6.16.2.6** Hot boxes & sprinkler connections
- 6.16.2.7** Grease traps
- 6.16.2.8** Service courts
- 6.16.2.9** Lighting
- 6.16.2.10** Satellite Dishes/ Solar Panels

6.16.3 REQUIREMENTS

The screening requirement will be based on the type of impact to be mitigated.

6.16.3.1 Noise

Solid waste areas, air handling equipment, supplementary power, parking and service courts can have noise impacts at the time of use, or the sound generated by the machinery itself. Applicants shall provide noise level documentation for equipment located adjacent to the residential or pedestrian use. The permit issuing authority may require any one, or a combination of fencing, distance, and baffling as needed to minimize noise generated by such facilities. Areas that are serviced between 9 p.m. and 7 a.m. shall be located at least 50 feet from a structure in residential use.

6.16.3.2 Visual

6.16.3.2.a Solid waste areas, utility meters, hot boxes and sprinkler connections, and service courts shall be screened from residences, pedestrian areas, and adjacent streets through landscaping, fences, walls, or grade changes of sufficient height to mitigate the visual impact of the utility being screened when viewed from the adjacent parcel, pedestrian area or street.

6.16.3.2.b Solid waste areas shall be screened by a fence or wall tall enough to screen the solid waste from view. The solid waste storage area shall be enclosed and secured by a gate.

6.16.3.2.c Air handling units, condensers, satellite dishes and other equipment that is placed on the roof shall be screened from view by building elements in order to shield from sight at grade as well as from nearby public rights-of-way

6.16.3.3 Light

Parking areas, service courts, delivery areas or others than include overhead and security lighting shall satisfy the lighting of this Ordinance. Further, local streets and residential properties shall be protected from headlight trespass through the installation of sufficiently tall landscaping or screening.

6.17 SIDEWALKS AND PEDESTRIAN ACCESS

6.17.1 PURPOSE AND INTENT

The regulations in this subsection are designed to advance identified goals and strategies found in the Town's adopted Comprehensive Sustainability Plan, and promote the public health, safety, and welfare by improving air quality and the quality of life for town residents and visitors. Providing sidewalks and other multi-modal travel methods adjacent to and within developments furthers the purposes for which these regulations are intended.

6.17.2 APPLICABILITY

The requirements of this subsection apply to developments that are subject to the following review procedures:

- (a) Creation of New Lots/Division of Land involving a Conservation, Major or Special Subdivision,
- (b) Site Plan Review,
- (c) Special Use Permit, including their modification, or
- (d) Zoning Compliance Permit involving a non-residential change of use if required by sub-paragraph 7.3.3, *Nonconforming Characteristics of Nonresidentially Zoned Properties*.

6.17.3 EXCEPTIONS TO SIDEWALK CONSTRUCTION REQUIREMENTS

6.17.3.1 Sidewalk construction, payment in-lieu of sidewalk construction (pursuant to paragraph 6.17.5, *Sidewalk Payment In-lieu of Construction*), or a combination of the two, is required where:

- (a) the permit-issuing authority determines:
 - (1) the sidewalk will interfere with or disrupt drainage if constructed where required,
 - (2) construction is infeasible, impractical, or undesirable due to special circumstances including, but not limited to, topography, streams, or other environmental limitations such as the presence of regulatory floodplains and riparian buffers, or
 - (3) if constructed, the sidewalk will not provide any present or future public safety benefit;
- (b) the sidewalk will be provided as part of a Town or State scheduled and funded roadway project to be built within three years of the proposed development's approval; or

- (c) an impending road widening project affecting the development is scheduled to begin within three years of the proposed development's approval.-

6.17.4 EXEMPTIONS FROM SIDEWALK CONSTRUCTION AND PAYMENT IN-LIEU REQUIREMENTS

Sidewalk construction and/or payment in-lieu of construction is not required where:

- (a) the development project:
 - 1. does not front on, or lie between, a street segment(s) identified as "recommended" on the Comprehensive Sustainability Plan's Sidewalk System Map, and
 - 2. no sidewalk or other pedestrian accessway exists, or is planned to be constructed, within 500 feet of the boundary of the land to be developed,
- (b) only a change of use or occupancy will occur with no substantial site improvements required or proposed,
- (c) only site grading and/or utility improvements are involved,
- (d) vehicular access to lots or other development will be provided by alleys connecting to streets with existing sidewalks or streets that will be constructed with sidewalks as part of the proposed development,
- (e) the sidewalk would be located within unimproved right-of-way not requiring improvement as part of the development, or
- (f) the required sidewalk is committed as part of another development project's permit, provided the permit is still valid and unexpired.

6.17.5 SIDEWALK PAYMENT IN-LIEU OF CONSTRUCTION

6.17.5.1 Where allowed by paragraph 6.17.3, *Exceptions to Sidewalk Construction Requirements*, the applicant shall make a payment to the Town in-lieu of sidewalk construction. A combination of construction and payment in-lieu may be made when an applicant chooses to construct a portion of sidewalk instead of making a full in-lieu payment. Nothing in this paragraph shall prevent an applicant from constructing sidewalks instead of making an in-lieu payment.

6.17.5.2 Payment shall be made to the Town at a rate set annually in the Town budget. Payment value shall equal the average linear foot of total sidewalk cost, including accessible ramps and required shade tree installation, as determined by a professional engineer or other professional qualified to provide the estimate. The calculation shall include the time and material cost in place at the time of the request.

- 6.17.5.3** Payment shall be made prior to (i) issuance of a Certificate of Occupancy, or (ii) release of any financial security held in association with the development project. Payments shall be deposited in the Town's sidewalk construction capital fund and used for sidewalk installation or repair within a 0.5-mile radius of the property for which the fee was collected.
- 6.17.5.4** Acceptance of payment-in-lieu shall not remove the requirement for sidewalks under paragraph 6.17.2, *Applicability*, for future property development unless exempted under paragraph 6.17.4, *Exemptions from Sidewalk Construction and Payment In-lieu Requirements*.

6.17.6 DESIGN REQUIREMENTS

- 6.17.6.1** Sidewalks shall be provided for all new developments and shall:

- (a) be provided within street rights-of-way along all adjacent and perimeter public streets on which the development tract has frontage. Additional street right-of-way of a sufficient width to accommodate the required sidewalk shall be dedicated along the street frontage in cases where the existing right-of-way is not wide enough to accommodate a sidewalk;
- (b) be provided on both sides of all internal streets within a development;
- (c) align vertically and horizontally with abutting sidewalks;
- (d) connect via a direct link to primary building entrances;
- (e) within unsubdivided developments (e.g., attached dwelling projects), link buildings with other buildings, adjacent public streets, on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities,
- (f) accommodate sidewalk shade trees required by paragraph 6.17.11, *Sidewalk Shade Trees*,
- (g) avoid conflicts or obstruction with above-ground structures or trees, and
- (h) maintain required width around any existing or anticipated obstructing object in the sidewalk's path.

- 6.17.6.2** During the development review process, reviewing agencies may designate areas where prior approval is required for any alteration to sidewalk locations. No other changes are permitted without the approval of all agencies that approved the original plans.

- 6.17.6.3** The Public Works Manager may approve changes in sidewalk location for a maximum linear distance of 200 feet without the need for amended plans. The approved plans will be annotated to reflect any approved changes.

6.17.7 CONSTRUCTION REQUIREMENTS

Sidewalks shall be constructed:

- (a) behind curb and gutter or a roadside swale,
- (b) to meet standards found in Appendix A, *Street Construction Standards and Specifications*, of the Town Code of Ordinances and the Town's adopted Street Manual. NCDOT standards must be met for sidewalks constructed within State-maintained street rights-of-way,
- (c) to meet all applicable ADA (Americans with Disabilities Act) requirements,
- (d) of concrete with a width of at least five feet and thickness of at least five-inches (six-inches at driveway entrances), unless use of alternative materials is approved by the Public Works Manager,
- (e) with a constructed barrier wherever a sidewalk is located within five-feet of a retaining wall 30-inches or greater in height, or steep grades exceeding a 1:1 ratio, and
- (f) with sidewalk shade trees required by paragraph 6.17.11, *Sidewalk Shade Trees*.

6.17.8 ENCROACHMENT AGREEMENTS REQUIRED FOR STATE-MAINTAINED STREETS

Sidewalks constructed within State-maintained-street rights-of-way shall be subject to a three-party encroachment agreement between the developer, NCDOT and Town.

6.17.9 ALTERNATIVE SIDEWALK PLANS

The permit-issuing authority may approve alternative sidewalk plans where it is shown that the alternative provides equal or greater internal and external pedestrian circulation and connectivity through use of off-street trails or multi-use pathways connecting to sidewalks, off-street trails, or multi-use pathways on the perimeter of the development tract.

6.17.10 ADDITIONAL MEANS OF PEDESTRIAN ACCESS

- (a) Whenever the permit-issuing authority determines a means of pedestrian access is necessary to connect a residential development to schools, parks, open space, playgrounds, other streets or facilities, and access is not conveniently provided by sidewalks adjacent to the streets, the applicant may be required to provide an improved pedestrian accessway located within an easement of at least 10 feet in width to provide pedestrian access.

- (b) The pedestrian accessway must be either paved with concrete, asphalt, pervious pavement, gravel, or other suitable material approved by the permit-issuing authority. Gravel or other loose materials used for paving must be contained by framing to prevent paving material wash-out.
- (c) The accessway shall be owned and maintained by a property or homeowners' association.

6.17.11 SIDEWALK SHADE TREES

- 6.17.11.1** Shade trees shall be installed in front yards behind the sidewalk along all development street frontages and internal streets according to the following table. This requirement does not apply where non-residential buildings are built to within 10 feet of the street right-of-way or designed with front courtyards or other site features providing similar shading.

SIDEWALK SHADE TREE PLANTING REQUIREMENTS				
<i>Tree Size¹</i>	<i>Dbh at Planting (inches)²</i>	<i>Minimum Height at Installation (feet)</i>	<i>Minimum Distance from Sidewalk (feet – sidewalk edge to tree center point)</i>	<i>Spacing (feet on center)³</i>
Small	1.5	6	5	30
Large	3	10	10	40
¹ Refer to Town's recommended planting list for acceptable species. ² Dbh (Diameter at breast height) is defined in Section 9, <i>Definitions</i> . ³ Permit-issuing authority may approve varied spacing if there are conflicts between utilities and tree placement provided required number of trees are provided.				

- 6.17.11.2** Where shade trees are planted on the development property behind street rights-of-way, a minimum 10-foot wide, private tree easement shall be provided for the planting and maintenance of required trees. Tree easements must be shown on site plans and subdivision plats and subject to a tree easement, planting, and maintenance agreement to be recorded in the register of deeds office.
- 6.17.11.3** Where non-residential buildings are built within 10 feet of a street right-of-way, shade trees shall be installed in "tree lawns" between the curb and sidewalk as follows:

TREE LAWN PLANTING REQUIREMENTS					
<i>Lawn Width (feet)</i>	<i>Tree Size¹</i>	<i>Dbh at Planting (inches)²</i>	<i>Minimum Height at Installation (feet)</i>	<i>Minimum Distance from Sidewalk (feet - sidewalk edge to tree center point)</i>	<i>Spacing (feet on center)³</i>
4 – 8	Small	1.5	6	2 - 2.5	30
≥8	Large	3	10	3.5	40
¹ Refer to Town's recommended planting list for acceptable species. ² Dbh (Diameter at breast height) is defined in Section 9, <i>Definitions</i> . ³ Permit-issuing authority may approve varied spacing if there are conflicts between utilities and tree placement provided required number of trees are provided.					

6.17.11.4 All shade tree planting areas and tree lawns shall be planted with grass, ground cover, or treated with other suitable cover material.

6.17.11.5 The following table lists recommended distances to be maintained between planted trees and various infrastructure and improvements:

RECOMMENDED MINIMUM DISTANCE FROM INFRASTRUCTURE AND IMPROVEMENTS	
<i>Use</i>	<i>Minimum Distance (feet)</i>
Back of curb/pavement	2
Catch basins	10
Driveways	10
Fire hydrants	10
Light poles	20
Manholes	10
Other trees	15 or 25 (depending on species)
Overhead and underground power distribution lines	½ average mature canopy width + 15 feet (measured from center of distribution corridor)
Sewer easements	Planting prohibited
Stop signs	30
Structures	10
Traffic signs (except Stop signs)	10
Utility boxes	3 feet sides and rear; 3 feet from doors
Water easements	Planting prohibited
Water meters	5
Water and sewer lines	Dependent on easement width; 10 feet where easement doesn't exist (measured from center of pipe)
All other services	10

6.18 SIGNAGE

6.18.1 INTENT

It is the general intent of this section to help protect and preserve the historic and aesthetic character of Hillsborough while balancing with those interests the need of businesses, government and the traveling public to safely and accurately identify and read information on permitted signs. Toward that end, the Town adopts these regulations regarding the number, area, location and other characteristics of signs.

6.18.2 SIGNS SUBJECT TO CONTROL

All signs visible from vehicular rights-of-way, both new and existing, shall be erected, maintained, and operated in accordance with this Ordinance and other relevant controls unless specifically exempted. The definition of “sign” also includes those messages inside a building specifically oriented to persons outside the building. The provisions of this section do not apply to window displays of merchandise but do apply to signs mounted in windows.

6.18.3 ZONING COMPLIANCE PERMIT REQUIRED

Before any sign, except those specifically exempted from such a requirement, shall be erected or structurally altered, a Zoning Compliance Permit must be obtained.

In the case of a multi-tenant development, the Zoning Compliance Permit shall be issued in the name of the owner of the multi-tenant development or his agent rather than in the name of any individual tenant thereof, and it shall be the sole responsibility of such owner or agent to allocate among the tenants the permissible maximum sign surface area established by this Ordinance. Upon application by the owner of a multi-tenant development, the Planning Director may issue a master sign permit that allocates permissible maximum sign surface area among the various buildings, businesses or tenancies in the development according to a formula established and furnished by the owner, and thereafter sign permits shall be issued to individual tenants only in accordance with the allocation formula on record with the Planning Director. No sign permit shall be issued for any sign which conflicts with the allocation formula on record, and no new freestanding sign may be erected except in accordance with the then existing sign regulations established by this Ordinance, and with the allocation formula on record.

6.18.4 PERMANENT SIGNS NOT SUBJECT TO PERMIT REQUIREMENTS

The following permanent signs are allowed and are not subject to the permit requirements of this Ordinance, but are subject to all other applicable provisions of this Ordinance, including Historic District requirements for Certificates of Appropriateness as described in Section 3.12, *Certificate of Appropriateness* of this Ordinance when located in the Historic District.

- 6.18.4.1** Non-illuminated signs not exceeding two (2) per lot and six (6) square feet each in area, bearing only property identification numbers and names, post office box numbers, and names of occupants of the premises.
- 6.18.4.2** Signs two (2) square feet in area posted on private property relating to private parking, warning the public against trespass or danger from animals.
- 6.18.4.3** Flags or insignia of any governmental or non-profit organization when not displayed in connection with commercial activity or promotion. One flag (each) of the United States and of the State of North Carolina no larger than 100 square feet may be displayed in connection with a commercial activity without being subject to the permit requirements of this section.
- 6.18.4.4** Legal notices, identification and informational signs installed by the Town of Hillsborough
- 6.18.4.5** Local traffic directional signs erected in the travel right of way by or on behalf of a governmental entity provided such signs are consistent with the Manual of Uniform Transportation Control Devices or Town's official wayfinding plan.
- 6.18.4.6** Memorial signs or tablets, and names and construction dates of buildings when cut into any masonry surface or when placed as a cast iron (or similar) plaque affixed to the building structure.
- 6.18.4.7** Signs not exceeding four (4) square feet and bearing no advertising matter directing and guiding traffic on multi-family or non-residential property.
- 6.18.4.8** At each entrance to a residential, multi-family, or non-residential development or recognized neighborhood, there may be not more than two (2) signs identifying such development

and/or the tenants within. A single side of any such sign may not exceed sixteen (16) square feet, nor may the total surface area of all such signs exceed thirty-two (32) square feet. Such signs must be made of natural materials.

- 6.18.4.9** In addition to the signs allowed in Section 6.18.4.8, the owner, property manager, homeowners' association or residents association of a residential or multi-family development may install a community event bulletin board at each entrance to the development. A community event bulletin board shall not be located in the public right of way, nor shall it be located in such a way as to interfere with lines of sight for vehicular traffic on, entering or exiting the public right of way. Each sign shall meet the following criteria: one unlighted, single-sided sign per entrance, 3' X 4' maximum dimensions, and 6' maximum installation height. The sign face (i.e., the single side of the sign on which information may be posted) shall be oriented toward traffic exiting the development, so that the sign face is not visible from the public right of way outside the subdivision or multi-family development it serves. Postings on the bulletin board shall be maintained in a neat and orderly condition and monitored by the homeowners' association or property manager.
- 6.18.4.10** Notwithstanding any other regulation to the contrary in this section 6.18, the name and/or logo of the Town of Hillsborough may be displayed on the water storage area (or container portion) of any Town-owned water tank, PROVIDED that no single display area may exceed the lesser of (a) 500 square feet or (b) the area calculated by multiplying (i) the height of the storage container portion of the tank by (ii) the diameter (for round) or width (for multi-lateral) of the storage container portion of the tank. No more than three (3) display areas may be placed on any tank, and all such display areas shall be placed a uniform distance from each other display area on the tank. The display area shall be painted or otherwise adhered flat against the exterior water tank surface and may not be illuminated in any way.

6.18.5 TEMPORARY SIGNS NOT SUBJECT TO PERMIT REQUIREMENTS

No temporary sign may be affixed, attached, or painted upon any utility pole, or upon any tree, rock, or other natural object. All temporary signs referring to commercial operations must include the name of the business entity sponsoring the sign and must be professionally printed. The following temporary signs are not subject to the permit requirements of this Ordinance but are otherwise subject to the requirements of this Ordinance except as specifically indicated herein:

- 6.18.5.1** Temporary real estate signs on lots of less than one (1) acre, a single sign on each street front. The sign shall not exceed four (4) square feet in area and may contain the message that the property is for sale, lease, or rent and the name, address, and phone number of the property owner or agent. For lots of one (1) acre or more acres in area, a sign not exceeding thirty-two (32) square feet in area may be displayed. Such signs must be located on the property but are not subject to the setback requirements.
- 6.18.5.2** Temporary real estate signs advertising an existing single-family dwelling for sale or rent may use up to two off site "pointer" signs not to exceed four (4) square feet in area and only displaying "for sale," "for rent," and either "by owner," or the logo of the agent. This type of sign is exempted from the provision requiring the business entity name. Such signs must be located on the property but are not subject to the setback requirements.

- 6.18.5.3** Construction site identification signs identifying the project, the architect, engineer, contractor, funding sources and/or other individuals or firms involved with the construction, the intended use or name of the building, and the expected completion date. Not more than one sign may be erected per site. The sign may not exceed four (4) square feet in area for single-family or duplex construction, or thirty-two (32) square feet for multi-family or non-residential construction. The sign may not be erected prior to issuance of a Building Permit, and shall be removed within seven (7) days after of issuance of a Certificate of Occupancy for construction projects for which a Certificate of Occupancy will be issued or otherwise within seven (7) days of completion of the work. This section also applies to signs identifying renovation and/or maintenance work on an existing, developed site.
- 6.18.5.4** Yard or garage sale signs announcing yard or garage sales, provided such signs do not exceed one (1) sign per lot and four (4) square feet in area per display surface, and are removed within seven (7) days of erection.
- 6.18.5.5** Temporary signs or banners announcing grand openings of new businesses only, which may be displayed for no more than 30 consecutive days. There shall be no more than one sign or banner for each business, such sign or banner shall not exceed 32 square feet in area, and shall be affixed to the structure the business is located within or at the driveway access for the building.
- 6.18.5.6** Temporary political signs advertising candidates or issues, provided such signs do not exceed nine (9) square feet in area per display surface, are mounted on stakes, do not exceed 3 feet in total height, are not erected more than 45 days before the date designated as election day, and are removed within seven (7) days after the election (in cases of run-off election, the political signs of the run- off candidates may remain until seven (7) days after the run-off election). Political signs may be located within the public right-of-way and setbacks provided that they do not intrude on the sight preservation triangle.
- 6.18.5.7** Banners or flags that are decorative or seasonal in nature or that are displayed in connection with the observance of holidays not to exceed three (3) per lot located in any zoning district. Banners or flags advertising SPECIAL sale events of for-profit organizations are not covered by this section.
- 6.18.5.8** Directional or “pointer” signs for events. Any event may have up to off-site 2 signs, not exceeding 2 square feet each. Events do not have to meet the definition of “public event” in this ordinance to use this sign. The signs may be displayed for no more than one 24-hour period only that coincides with the event.

6.18.6 TEMPORARY SIGNS SUBJECT TO PERMIT REQUIREMENTS

The following temporary signs are subject to the permit requirements of this Ordinance and are subject to Historic District requirements for Certificates of Appropriateness as described in Section 3.12, *Certificate of Appropriateness* when located in the Historic District.

- 6.18.6.1 Sandwich board** signs may be displayed by businesses to advertise information beyond identifying the name and location of the business upon issuance of a Zoning Compliance Permit and approval by the Historic District Commission if the business is located in the

Historic District, provided that the sign:

6.18.6.1.a Has a maximum area of six (6) square feet per side.

6.18.6.1.b Does not exceed four (4) feet in height;

6.18.6.1.c Is located on a public sidewalk or walkway outside the clear pedestrian path as defined by the Town Code.

6.18.6.1.d Is limited to a maximum of one per parcel, provided that if a single business establishment occupies more than one parcel or is located on a corner lot, it may have only one sandwich board sign;

6.18.6.1.e Is displayed only during the open hours of the business; and

6.18.6.1.f Is made of wood or metal.

6.18.6.1.g Businesses which have permitted outdoor seating in the public right of way may display a single sided sign attached to the barrier installed to separate the outdoor seating from the clear pedestrian path. This sign must meet all of the requirements in subsections a-f above and receive the same permits as a sandwich board.

6.18.6.2 Announcements of public events as defined by this ordinance taking place within the Town or its extraterritorial jurisdiction may be permitted subject to the following standards. If an event that otherwise meets the definition occurs monthly or more frequently, the event does not qualify for the signage allowed in this section.

6.18.6.2.a The event is sponsored by a non-profit, unit of state or local government, or formal association of merchants. For the purposes of this section, the entity that wishes to qualify may be requested to provide documentation of their status as an association, organization by the Planning Director.

6.18.6.2.b Signs may be erected no more than 14 days prior to the event and shall be removed no later than 48 hours after the event has concluded. For any event lasting more than 2 days, signs may not be displayed for more than 17 days.

6.18.6.2.c No event shall display more than 100 square feet of signage, including all off-site and on site signage allowed under this ordinance.

6.18.6.2.d No event shall display more than 6 signs, as detailed below. The Planning Director will issue a Zoning Compliance Permit detailing the approved sign number, size, and locations.

- (a) One sign may be located on the lot hosting the event for the same display period. This sign may be a banner if it is securely fastened and adequately vented to not pose a threat to traffic. This sign shall be no larger than 32 square feet.
- (b) One sign may be a banner posted at the "Welcome to Hillsborough" sign as detailed below. No event is required to have a banner. If an event decides to not use a banner, the total number of signs permitted is reduced to five.
- (c) Four off-site signs, displayed in different locations, may be located in the public right of way, but not in a driveway or intersection sight triangle. These signs must be of rigid construction (not banners) and a single side may not exceed 8 square feet. The sign locations must be included in the permit application materials.

6.18.6.3 Banners advertising public events, as defined by this ordinance, may only be installed at the "Welcome to Hillsborough" sign on South Churton Street. The Planning Director shall issue a

Zoning Compliance Permit for each banner on a first come first served basis. The Planning Director will resolve any overlapping requests for banner displays. Banners that are part of a public event sign package authorized in Section 6.18.6.2 shall be displayed for a time period matching the other event signage. Otherwise the display period shall not exceed 14 days. Banners shall conform to written standards and safety guidelines as established by the Planning Director.

6.18.7 PROHIBITED SIGNS & PROHIBITED CHARACTERISTICS

- 6.18.7.1** Temporary signs, both new and existing, other than those expressly allowed in this Ordinance, are prohibited.
- 6.18.7.2** Devices consisting of flags other than those exempted by Section 6.18.4.3, banners, streamers, pennants, windblown propellers, balloons, strung light bulbs, flashing lights, rotating lights, strobe lights, fluorescent lights, rotating or other moving or apparently moving installations, are prohibited.
- 6.18.7.3** Vehicles, persons, and other creatures, devices, equipment or materials decorated in such a way as to promote a business or product and located or placed so as to be visible from the public right-of-way are prohibited.
- 6.18.7.4** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure to minimize the danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.
- 6.18.7.5** All non-exempt signs shall comply with the construction requirements of the North Carolina State Building Code. Trailer mounted signs do not meet these requirements.
- 6.18.7.6** Off-premise signage, both new and existing, other than those expressly allowed in this Ordinance, are prohibited.
- 6.18.7.7** Changeable message components, including but not limited to, marquees, push-up/drop-down tracks, sign lettering rails, and rotating LED or video screens are prohibited on all permanent signs. This does not apply to temporary signs, including sandwich boards.

6.18.8 TRAFFIC SAFETY PRECAUTIONS

Notwithstanding any other provisions in this Ordinance, the following practices in relation to signs are prohibited in order to preserve the safety of pedestrian and vehicular movement:

- 6.18.8.1** No part of any permanent sign may intrude into the sight preservation triangle.
- 6.18.8.2** No privately owned sign shall use words such as "stop," "slow," "caution," "danger," or similar admonitions in a format or manner which could be confused with traffic directional signs erected by government agencies.
- 6.18.8.3** No sign shall be erected which, by its location, color, nature, or message, (a) might be confused with or obstruct the view of traffic signals or signs or (b) might be confused with the warning lights of an emergency or public safety vehicle.

6.18.9 RESTRICTIONS ON ILLUMINATION

Unless otherwise prohibited by this chapter, signs may be illuminated only in accordance with this section. All illuminated signs allowed by this Ordinance must also comply with duly adopted regulations regarding light emissions as described in *Section 6.11, Lighting*. Notwithstanding the foregoing, internally illuminated signs are prohibited in the Historic District.

- 6.18.9.1** Directional lighting fixtures used for sign lighting shall be top mounted, so lighting is aimed down. Ground mounted signs with a height of five (5) feet or less may be ground lit, provided that the lights are shielded so as to illuminate the sign only, and the light shall not exceed 10 foot candles at the sign surface.
- 6.18.9.2** No illuminated signs are allowed in any residential zoning district, except signs at the entrance to a residential subdivision, neighborhood or multi-family development allowed by Section 6.18.4.8 above may be illuminated.
- 6.18.9.3** Freestanding signs and window signs may not be illuminated when the business is closed. Those signs advertising multiple businesses may not be illuminated when all the businesses advertised are closed.
- 6.18.9.4** Lighting directed toward a sign shall be shielded so that it illuminates on the face of the sign and does not shine directly into a public right-of-way or residential premises.
- 6.18.9.5** Subject to Section 6.18.9.7 illuminated tubing or strings of lights that outline property lines, outdoor sales areas, roof lines, or similar areas in an attempt to draw attention to a structure or area from a vehicular right of way are prohibited. This section will be enforced in concert with 6.11.6.9 so the intent of both sections is met.
- 6.18.9.6** Subject to Section 6.18.9.7 no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, or weather conditions.
- 6.18.9.7** Sections 6.18.9.5 and 6.18.9.6 do not apply to temporary signs erected in connection with observance of holidays.
- 6.18.9.8** Within the historic overlay district, illuminated tubing signs shall not be permitted. For purposes of this subsection, the term "illuminated tubing sign" includes all signs in which illuminated tubing constitutes or forms all or part of the message of the sign, as well as signs in which the message area of the sign is outlined, underlined, or otherwise highlighted by illuminated tubing.

6.18.10 BILLBOARDS

Billboards within one hundred (100) feet of the right-of-way along all roads are prohibited, with the exception of existing billboards as of February 17, 1986. These pre-existing billboards shall be subject to the following restrictions:

- 6.18.10.1** They shall not be enlarged or expanded,
- 6.18.10.2** A signed statement with the name and address of the owner and current lease for each sign shall be kept on file with the Planning Director,
- 6.18.10.3** They shall be subject to yearly inspections,
- 6.18.10.4** They shall conform to the requirements set forth in North Carolina General Statutes, Section 136-126, et seq.

6.18.11 COMPUTATION OF SIGN AREA

For the purpose of determining the number of signs permitted, a sign shall be considered to be a single display device containing elements organized, related, and composed to form a unit.

Without limiting the generality of the above, a multi-sided sign shall be regarded as one sign.

- 6.18.11.1** The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
- 6.18.11.2** If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.
- 6.18.11.3** With respect to three dimensional or multi-sided signs, the surface area shall be computed by including the area of all sides designed either to attract attention or communicate information.
- 6.18.11.4** Generally, parcels and businesses are permitted to have both freestanding and wall mounted signs to the extent to which signs can be erected and maintained to be in full compliance with this ordinance. The area of these signs is calculated independently.

6.18.12 TOTAL SIGN SURFACE AREA FOR WALL MOUNTED SIGNS

- 6.18.12.1** Unless otherwise provided in this section, the total sign surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs except temporary signs shall be included in this calculation. Signs, posters, banners and/or other advertising material placed in or on windows oriented toward the public outside the premises shall be counted in calculating the permitted wall sign area under this Ordinance.
- 6.18.12.2** For the purposes of managing wall mounted signs, the word “façade” shall include all planes facing the same direction regardless of structural offsets and the word “building” shall be determined by property boundaries unless information is provided about interior fire walls dividing a structure into multiple components.
- 6.18.12.3** Unless otherwise limited by the provisions of this section, the wall sign surface area permitted on any building façade, shall be determined as follows:
 - 6.18.12.3.a** 0.5 square feet of wall sign surface area per linear foot of building façade, or
 - 6.18.12.3.b** thirty-two (32) square feet of wall sign surface area per building façade, whichever is greater.
- 6.18.12.4** In the CC district, wall signs are only permitted on facades providing primary access to businesses for customers. The maximum aggregate wall sign surface area for each façade providing primary access to businesses for their customers shall be 32 square feet, regardless of the façade area or length. This limit shall apply to all wall mounted signs, including exterior, interior, awning, and hanging types.
- 6.18.12.5** When a building has wall area that is not parallel or perpendicular to the adjoining street,

the allowable sign area for that wall section shall be calculated by measuring the entire façade oriented along the same angle (consistent with Section 6.18.12.2) and apply the calculation in Section 6.18.12.3a. There is no minimum allowance for angled wall sections.

- 6.18.12.6** When a building has visibility and/or access from both a public right of way and a parking area, each business may have a wall mounted sign on both facades. The “front” façade shall be the one oriented toward the public right of way and the “rear” façade shall be the opposite façade. The sign area allowed on the “front” façade shall be calculated as detailed in Section 6.18.12.3. The sign area allowed on the “rear” façade shall be the lesser of the area allowed when calculated under Section 6.18.12.3 or 75% of the area of the sign on the front façade.
- 6.18.12.7** Hanging signs are permitted and considered wall signs under this ordinance for determining size, location, and illumination. The calculation for allowable sign area shall be for a single side of a hanging sign, not divided in half. A single side of a hanging sign shall be compared to the building façade area for determining compliance with the requirement in the CC district in Section 6.18.12.4.
- 6.18.12.8** When a building contains a sign band, such a building may only use a flush mounted wall sign and it must be located and centered within the sign band area. Hanging signs shall not be used on a façade with a sign band.

6.18.13 FREESTANDING SIGN SURFACE AREA

- 6.18.13.1** For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in Section 6.18.11, *Computation of Sign Area*. For example, wall signs typically have one side. Freestanding signs typically have two sides (back to back).
- 6.18.13.2** A single side of a freestanding sign may not exceed: twenty (20) square feet in surface area for lots zoned Central Commercial or for lots with fifty (50) feet or less of frontage on the street toward which the sign is primarily oriented; thirty- two (32) square feet on lots with more than fifty but less than 130 feet of frontage; fifty (50) square feet on lots with 130 feet or more of frontage. For the purpose of calculating the amount of freestanding sign surface area allowed by this section, the street frontage must be continuous.

6.18.14 NUMBER OF FREESTANDING SIGNS

- 6.18.14.1** No parcel may have more than one (1) freestanding sign oriented toward a street for each street along which the development has frontage. If a single use parcel has frontage along the same street in non-continuous sections separated by more than 500 linear feet of street frontage, one freestanding sign may be allowed on each section of frontage for which there is vehicular access based on the length of that continuous section, provided, however, that the sign surface area for the development may not exceed the area calculated pursuant to Section 6.18.13 for single tenant parcels and Section 6.18.18 for multi-tenant developments.
- 6.18.14.2** If a lot is located at the intersection of two (2) streets and a freestanding sign is placed on that lot so that it is oriented toward both streets, the allowable sign area shall be based on the frontage width of the street where the front door is located or, if the door faces the

intersection, the frontage width of the street used as the street address for the property.

6.18.15 LOCATION AND HEIGHT REQUIREMENTS

- 6.18.15.1** A freestanding sign shall observe a setback of 10 feet from any property line unless a lesser or greater standard is otherwise specified in this ordinance or allowed by the permit issuing authority.
- 6.18.15.2** In the case of an existing building being used for non-residential purposes in a corridor where the street right-of-way is 100 feet or greater and the right-of-way is only improved to a two lane section, the non-residential use may install any freestanding sign that otherwise meets this ordinance without a right-of-way setback. This provision is only available until there are funded right-of-way improvements that widen the street section to four or more lanes adjacent to the lot containing the non- residential use that will begin within 2 years of any requested sign permit.
- 6.18.15.3** No sign may extend above any parapet or be placed on any roof surface. This subsection shall not apply to displays, including lighting, erected in connection with the observance of holidays on the roofs of residential structures.
- 6.18.15.4** No part of a freestanding sign may exceed a height of seven (7) feet, measured from adjacent ground level.
- 6.18.15.5** Except within the Historic District and CC, freestanding signs shall be ground mounted or monument type signs with the support located under the sign.
- 6.18.15.6** Within the Historic District and CC, freestanding signs may be supported by two posts or poles, one on each end of the sign, or hang from a ground installed bracket. Such signs must be wholly located on the parcel and not encroach in or over the public right of way. Hanging signs attached to a building are treated as wall mounted signs.
- 6.18.15.7** No sign or supporting structure may be located within or over any public right-of-way except that, within the Historic District and CC, signs and supporting structures may be located within or over the public right of way so long as:
 - 6.18.15.7.a** No portion of any sign or supporting structure is located within or over the traveled or paved portion of any street.
 - 6.18.15.7.b** Any sign or supporting structure that is attached to the building façade and extends twelve inches or less over a public sidewalk must be mounted so the entire sign is no less than twenty-seven inches and no more than eight feet in height measured from the public sidewalk.
 - 6.18.15.7.c** Any sign or supporting structure that is attached to the building façade and extends more than twelve (12) inches over a public sidewalk is mounted at a height providing at least eight (8) feet of clearance from the sidewalk.

6.18.16 NONCONFORMING SIGNS

- 6.18.16.1** Nonconforming signs, because of their location, design, height, and other features, detract from the quality of life and sense of place Hillsborough seeks to achieve and maintain. Therefore, it is the intent of this Ordinance that all nonconforming signs will eventually be

brought into conformity with its provisions, and that nonconforming signs will ultimately be phased out of existence. A freestanding sign in the Central Commercial district may observe a zero setback from the right of way edge along the parcel front, consistent with the zoning district front setback.

- 6.18.16.2** No person may engage in any activity that causes an increase in the extent of non-conformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered, nor may any illumination be added to any nonconforming sign.
- 6.18.16.3** A nonconforming sign structure may not be moved, replaced, or otherwise changed except to bring the sign into complete conformity with this Ordinance. The message contained on the sign may be changed provided that no change is made to the sign structure, and the sign area and dimensions are not changed.
- 6.18.16.4** If a nonconforming sign is damaged to an extent equal to or greater than 50% of the sign replacement cost (new) or destroyed, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land.
- 6.18.16.5** If the owner or occupant of premises with of a nonconforming sign discontinues operations for a period of 90 consecutive days, then the owner shall remove the nonconforming sign and the sign structure shall be cleared from the land.

6.18.17 REMOVAL OF NONCONFORMING SIGNS

- 6.18.17.1** Any permanent sign that was in compliance with this section before amendments in 2008 or later made it nonconforming may continue to exist for a period not to exceed six (6) years from the date which the property owner is notified in writing by the Planning Director of the nonconformity.
- 6.18.17.2** Any permanent sign that was nonconforming with this section prior to amendments made in 2008 may continue to exist for a period not to exceed three (3) years from the date which the property owner is notified in writing by the Planning Director of the nonconformity.
- 6.18.17.3** Any non-exempt temporary sign on private property must be removed within thirty (30) days of the receipt by the property owner of the written notice from the Planning Director detailing the nonconformity.
- 6.18.17.4** Any temporary sign, either exempt or nonconforming, located within the public right-of-way may be removed by town staff if such sign is determined to be in violation of this Ordinance. Persons or businesses who repeat violations of this provision twice within any thirty (30) day period may be subject to escalating fines as described in Section 8, *Enforcement*.

6.18.18 SIGNAGE FOR MULTI-TENANT DEVELOPMENTS

- 6.18.18.1** Freestanding signs may be allowed at each entrance drive to a multi-tenant development provided the driveways are separated by 300 feet or more.
- 6.18.18.2** The size of the freestanding sign allowed at each driveway access shall be determined by the frontage the development has on the street toward which the sign is oriented. A sign of that size is allowed at each driveway. For example, a multi-tenant development has 400 feet of

frontage on a street and 2 driveway accesses. A freestanding sign may be installed at each driveway access that is 50 square feet in size.

- 6.18.18.3** If a multi-tenant development has more than 500 feet of access on any street, and the driveway accesses are separated by 300 feet or more, the freestanding sign at each driveway may be 100 square feet.
- 6.18.18.4** Upon application for a multi-tenant development signs, the owners shall submit a sign allocation plan that indicates how square footage will be shared among tenants. Different tenant may be advertised on each sign. No tenant listing can be in print smaller than 6 inches tall. The sign area may be increased by 10% if the sign includes only the development name and three individual tenants.
- 6.18.18.5** A multi-tenant development sign must observe a 10-foot setback from the public road and internal driveways. The tallest part of a freestanding multi-tenant development sign shall not exceed 7 feet when observing the 10-foot setback. Sign height may increase to 12 feet if one additional foot of setback from the public street is observed for each additional foot in height above seven feet.
- 6.18.18.6** Outparcels within a multi-tenant development (lots owned by entities other than the multi-tenant development) may install freestanding signs along the public road or private access drive to which they have driveway access. For the purposes of determining sign specifications, a private access drive shall be treated as a public road for determining setback, height, and size of sign. A freestanding sign may only be installed oriented toward a street or access drive that the outparcel has driveway access to.

6.18.19 INTERNAL WAYFINDING

Multi-tenant developments with 2 or more access points or 3 or more buildings shall develop and install an internal wayfinding sign program with components for both drivers and pedestrians. Such signage may also be developed and installed for non-residential developments with 2 or more access point or 3 or more buildings. A unified sign plan must be submitted and approved before the signs are installed, showing that the signs comply with location, lighting, construction, and height limitations of this section. Individual wayfinding signs do not count toward development or tenant signage and will be permitted on a single Zoning Compliance Permit. Internal wayfinding signage must be at least 50 feet from the right of way of the street providing site access and must be oriented toward on-site traffic flow.

6.19 Reserve for future codification

6.20 STORMWATER MANAGEMENT

6.20.1 PURPOSE AND INTENT

- 6.20.1.1** The Town of Hillsborough's planning jurisdiction is located wholly within the Upper Neuse River Basin and the Falls Lake watershed; both nutrient sensitive watersheds. The regulations contained in this subsection are adopted in order to:

6.20.1.1.a Protect the water quality of streams within the watershed.

6.20.1.1.b Comply with the NPDES System Phase II stormwater requirements; and

6.20.1.1.c Comply with the Town's NPDES Phase II Discharge Permit.

6.20.1.2 The regulations are designed to accomplish these goals through the reduction and control of stormwater runoff and by addressing nutrient reductions for both new and existing development. The provisions of this Subsection became effective on October 1, 2007, and are intended to ensure the Town's compliance with their NPDES Phase II Discharge Permit; Session Law 2006-246 and the Falls Nutrient Strategy (15A NCAC 02b.0275, .0277, .0278 and .0282).

6.20.2 APPLICABILITY

The following activities shall be subject to the requirement of this subsection:

6.20.2.1 New and re-development projects creating new impervious surface areas of 10,000 square feet or more in area.

6.20.2.2 New and re-development projects increasing existing impervious surface areas by 10,000 square feet or more in area.

6.20.2.3 Any activity disturbing 10,000 square feet or more of land in order to establish, expand, or modify a residential, commercial or industrial development (including the re- subdivision of land) involving the construction of streets and other impervious features.

6.20.2.4 Any activity disturbing 10,000 square feet or more of land in order to establish, expand, or modify a multi-family residential, commercial, industrial, or institutional development or facility.

6.20.2.5 Any development activity cumulatively disturbing 21,780 square feet (1/2 acre) or more of land in order to establish, expand, or modify a single- or two-family dwelling and their customary accessory structures on an individual lot and not proposed as part of a larger common plan of development or sale.

6.20.2.6 Any development activity cumulatively disturbing 21,780 square feet (1/2 acre) or more of land in order to establish, expand, or modify a recreational development on an individual lot and not proposed as part of a larger common plan of development or sale.

6.20.2.7 The requirements of this subsection do not apply to any work that does not add to, increase, or expand existing impervious surfaces. An example would be the paving of an existing gravel parking lot with asphalt provided the area of the parking lot is not expanded in any way.

6.20.3 DEVELOPMENT STANDARDS

6.20.3.1 Low-Density Projects

Low-density projects shall implement stormwater control measures that comply with all of the following standards:

6.20.3.1.a Stormwater runoff from the development site shall be transported from the development site by vegetated conveyances to the maximum extent practicable.

6.20.3.1.b Nutrient load contributions leaving the site must meet the most current loading rates adopted by NCDWQ requirements of *Section 6.20.4, Nutrient Load Calculation*.

6.20.3.1.c At a minimum, the development shall not result in a net increase in peak flow

leaving the site from pre-development conditions for the one-year, 24-hour storm event.

6.20.3.1.d All impervious surface areas shall meet the riparian buffer requirements found in *Section 6.20.16, Riparian buffers*.

6.20.3.1.e The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

6.20.3.2 High-Density Projects

High-density projects shall implement stormwater control measures that comply with each of the following standards:

6.20.3.2.a Must control and treat runoff (generated from all surfaces) from the first inch of rain. Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.

6.20.3.2.b All structural treatment systems used shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids.

6.20.3.2.c General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Stormwater Design Manual.

6.20.3.2.d Nutrient load contributions leaving the site must meet the requirements of *Section 6.20.4, Nutrient Load Calculation*.

6.20.3.2.e At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, 24-hour storm event.

6.20.3.2.f All impervious surface areas shall meet the riparian buffer requirements found in *Section 6.20.16, Riparian Buffers*.

6.20.3.2.g The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

6.20.4 NUTRIENT LOAD CALCULATION

6.20.4.1 Nitrogen and phosphorous loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorous, respectively.

6.20.4.2 Development subject to this ordinance shall attain nitrogen and phosphorous loading rate reductions on-site that meet the following criteria prior to using an off-site offset measure:

6.20.4.2.a 30% or more reduction in both nitrogen and phosphorous loading from the untreated conditions for any single-family, detached and duplex residential development disturbing one-half acre but less than one acre.

6.20.4.2.b 50% or more reduction in both nitrogen and phosphorous loading from the untreated conditions for any single-family, detached and duplex residential development disturbing more than one acre.

6.20.4.2.c 30% or more reduction in both nitrogen and phosphorous loading from the untreated condition for other development, including multi-family residential,

commercial and industrial development disturbing 10,000 square feet but less than one acre.

6.20.4.2.d 50% or more reduction in both nitrogen and phosphorous loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing more than one acre.

6.20.4.2.e 30% or more reduction in both nitrogen and phosphorous loading from the untreated condition for proposed redevelopment activities in a designated downtown area that would replace or expand structures or improvements that existed as of December 2006.

6.20.4.3 Total nutrient removal rates of stormwater BMPs and BMPs in a series will be credited and calculated pursuant to the approved accounting tool.

6.20.5 OFFSET PAYMENTS

6.20.5.1 In accordance with subsection 6.20.4.2 above, offset fees may be permitted to meet the nutrient export levels set for new development activities.

6.20.5.2 Offset fees shall be paid to the NCEEP (North Carolina Ecosystem Enhancement Program) or another private mitigation bank approved by NCDWQ. Offset fees must be used within the Falls Lake Watershed.

6.20.5.3 A developer subject to this ordinance may achieve the additional reductions in nitrogen and phosphorus loading required by this ordinance by making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the Town of Hillsborough. A developer may propose other offset measures to the Town of Hillsborough, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this ordinance shall meet the requirements of 15A NCAC 02B .0282 and 15A NCAC 02B. 0240.

6.20.5.4 Permanent Nutrient Export Reduction Best Management Practices

The following on-site BMPs may be used for reducing nutrients from new developments:

6.20.5.4.a bio-retention

6.20.5.4.b constructed wetlands

6.20.5.4.c open channel practices

6.20.5.4.d riparian buffers

6.20.5.4.e wet detention ponds

6.20.5.4.f other methods approved by NCDWQ.

The Town encourages applicants to pursue innovative options for treating stormwater on-site and discourages the use of wet detention ponds for most applications.

6.20.5.5 Total Nutrient Removal Rates

Total nutrient removal rates of stormwater BMPs and BMPs in a series will be credited and calculated pursuant to the approved accounting tool. To receive full nutrient reduction credit, design standards must follow those outlined in the Stormwater BMP Manual.

Variances from the design standards may be allowed as approved on a case by case basis.

6.20.6 EVALUATION OF STANDARD FOR STORMWATER CONTROL MEASURES

6.20.6.1 Evaluation According to Contents of Stormwater Design Manual

All stormwater control measures, stormwater systems and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Stormwater Design Manual. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this ordinance.

6.20.6.2 Determination of Adequacy; Presumption and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Stormwater Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Stormwater Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

6.20.7 STORMWATER MANAGEMENT PLAN

6.20.7.1 Required Approval

The permit-issuing authority shall not issue any permits for new development on any land within the Town's planning jurisdiction unless and until a Stormwater Management Plan has been reviewed and approved in accordance with standards found in the *Administrative Manual*.

6.20.7.2 Compliance With Requirements

Any person engaged in new development activities as defined by this subsection who fails to file a plan in accordance with this ordinance, or who conducts any new development except in accordance with the provisions of an approved Stormwater Management Plan, shall be deemed in violation of this ordinance.

6.20.7.3 As-Built Plans and Final Approval

6.20.7.3.a Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

6.20.7.3.b The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and

with the requirements of this ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

6.20.8 GENERAL STANDARDS FOR MAINTENANCE

6.20.8.1 Function of BMPs as Intended

The owner of each engineered stormwater control or stormwater BMP installed pursuant to this ordinance or any previous zoning or subdivision ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the engineered stormwater control was designed.

6.20.8.2 Annual Maintenance Inspection and Report

6.20.8.2.a The person responsible for maintenance of any engineered stormwater control installed pursuant to this ordinance or any previous zoning or subdivision ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- (a) The name and address of the landowner.
- (b) The recorded book and page number of the lot of each engineered stormwater control.
- (c) A statement that an inspection was made of all engineered stormwater controls.
- (d) The date the inspection was made.
- (e) A statement that all inspected engineered stormwater controls are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- (f) The original signature and seal of the engineer, surveyor, or landscape architect.

6.20.8.2.b For newly constructed engineered stormwater controls or stormwater BMPs, the Annual Maintenance Inspection and Report must be submitted to the Stormwater Administrator no later than September 1 of each year, beginning one year from the date of the as-built certification and each year thereafter.

6.20.8.2.c Engineered stormwater controls or stormwater BMPs constructed prior to February 28, 2011 pursuant to previous zoning or subdivision ordinances must complete an annual maintenance inspection and submit a report as described in Section 6.20.8.2.a above. The Annual Maintenance Inspection and Report must be submitted to the Stormwater Administrator no later than September 1 of each year.

6.20.9 OPERATION AND MAINTENANCE AGREEMENT

6.20.9.1 In General

- 6.20.9.1.a** Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this ordinance, and prior to issuance of any permit for development requiring a engineered stormwater control pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the engineered stormwater control. Until the transference of all property, sites, or lots served by the engineered stormwater control, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
- 6.20.9.1.b** The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater control, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater control. In addition, it shall grant to Town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation on Town to assume responsibility for the engineered stormwater control.
- 6.20.9.1.c** The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

6.20.9.2 Special Requirement for Homeowners' and Other Associations

For all engineered stormwater controls required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

- 6.20.9.2.a** Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- 6.20.9.2.b** Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the engineered stormwater controls. If engineered stormwater controls are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the engineered stormwater controls, provided that the Town shall first consent to the

expenditure.

- 6.20.9.2.c** Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15% percent of the initial construction cost of the engineered stormwater controls. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first 5 years and the full amount shall be deposited within 10 years following initial construction of the engineered stormwater controls. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
- 6.20.9.2.d** The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town depending on the design and materials of the stormwater control and management facility.
- 6.20.9.2.e** Granting to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct engineered stormwater controls.
- 6.20.9.2.f** Allowing the Town to recover from the association and its members any and all costs the Town expends to maintain or repair the engineered stormwater controls or to correct any operational deficiencies. Failure to pay the Town all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town shall thereafter be entitled to bring an action against the association and its members to pay or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
- 6.20.9.2.g** A statement that this agreement shall not obligate the Town to maintain or repair any engineered stormwater controls, and the Town shall not be liable to any person for the condition or operation of engineered stormwater controls.
- 6.20.9.2.h** A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law.
- 6.20.9.2.i** A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the engineered stormwater control, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

6.20.10 INSPECTION PROGRAM

- 6.20.10.1** Inspections and inspection programs by the Town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

- 6.20.10.2** If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

6.20.11 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

6.20.11.1 May Be Required

The Town may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the engineered stormwater controls are:

6.20.11.1.a installed by the permit holder as required by the approved stormwater management plan, and/or

6.20.11.1.b maintained by the owner as required by the operation and maintenance agreement.

6.20.11.2 Amount

6.20.11.2.a *Installation*

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

6.20.11.2.b *Maintenance*

The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

6.20.11.3 Uses of Performance Security

6.20.11.3.a *Forfeiture Provisions*

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

6.20.11.3.b *Default*

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any engineered stormwater control in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

6.20.11.3.c *Costs in Excess of Performance Security*

If Town takes action upon such failure by the applicant or owner, the Town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to

any other penalties or damages due.

6.20.11.3.d Refund

Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

6.20.12 NOTICE TO OWNERS

6.20.12.1 Deed Recordation and Indications on Plat

The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable)] pertaining to every engineered stormwater control shall be referenced on the final plat and shall be recorded with the County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable] shall be recorded with the County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

6.20.12.2 Signage

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this ordinance, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

6.20.13 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

6.20.14 NUISANCE

The owner of each stormwater BMP, whether engineered stormwater control or non-engineered stormwater control, shall maintain it so as not to create or result in a nuisance condition.

6.20.15 MAINTENANCE EASEMENT

Every engineered stormwater control installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded, and its terms shall specify who may make use of the easement and for what purposes.

6.20.16 RIPARIAN BUFFERS

6.20.16.1 Purpose and Intent

In order to minimize sedimentation and pollution of surface waters within the planning jurisdiction, riparian buffers shall be provided along all surface waters identified in *Section 6.20.16.3, Applicability*. Undisturbed natural areas along surface waters act as a filter for sedimentation control and as a stabilizing agent for the banks of surface waters. In addition, these areas filter storm water run-off which may carry significant amounts of bacteria, excess nutrients and heavy metals into surface waters. The buffer areas, along with controls

on impervious surfaces, provide a good measure of water quality protection for the Eno River.

The Neuse River Basin Nutrient Sensitive Waters Management Strategy riparian buffer protection rules (Neuse Rules) of 15A NCAC 028 .0233 and .0241, apply to all lands within the Town of Hillsborough's planning jurisdiction. Wherever standards of the Neuse Rules and the standards listed in this ordinance differ, the more restrictive provisions shall apply.

6.20.16.2 Delegated Authority

The North Carolina Environmental Management Commission has jurisdiction to the exclusion of the Planning Director or designee to implement the requirements of the State's program for the following types of activities:

6.20.16.2.a Activities undertaken by the State.

6.20.16.2.b Activities undertaken by the United States.

6.20.16.2.c Activities undertaken by multiple jurisdictions.

6.20.16.2.d Activities undertaken by local units of government; and

6.20.16.2.e Forestry Operations

6.20.16.3 Applicability

A riparian buffer shall be established directly adjacent to surface waters (i.e. intermittent streams, perennial streams, lakes and ponds) identified by any of the following means:

6.20.16.3.a Surface water shown as solid blue or purple lines or as broken blue or purple lines on the most recent version of USGS Quadrangle maps.

6.20.16.3.b Surface water shown in the most recent version of the Orange County Soil Survey; or

6.20.16.3.c A surface water identified in a field determination made by staff trained in surface water identification through the North Carolina Division of Water Quality (NCDWQ). Disputes pertaining to water feature decisions by staff shall be filed directly to the Director of NCDWQ.

6.20.16.4 Exemption Based upon an On-site Determination

When a landowner or other affected party including the Division believes that the maps inaccurately depict surface waters, they may request an On-site determination conducted by staff who has successfully completed the Division's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Resources in writing. A determination of the Director of the Division of Water Resources as to the accuracy or application of the maps is subject to review as provided in articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to this Rule if a site evaluation reveals any of the following cases:

6.20.16.4.a Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 02B .0110, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.

6.20.16.4.b Ephemeral streams.

6.20.16.4.c The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

6.20.16.4.d Ditches or other man-made water conveyances, other than modified natural streams.

6.20.16.5 Exemption when Existing Uses are Present and Ongoing

Section 6.20.16, Riparian Buffers does not apply to portions of the riparian buffer where a use is considered existing and ongoing according in accordance with 15A NCAC 028 .0233 (3). A use is considered existing if it was present within the riparian buffer as of July 22, 1997. Existing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems. Only the portion of the riparian buffer that contains the footprint of the existing use is exempt from this Rule.

6.20.16.6 Calculations for Width of Riparian Buffers

The width of the buffer along the Eno River shall be the floodway as shown on the Floodway Map from the National Flood Insurance Program, plus fifty (50) feet. However, in no case, shall the riparian buffer exceed the outer line of the floodplain as shown on the Flood Insurance Rate Map (FIRM) of the National Flood Insurance Program. For streams within the PW and PWCA zoning districts (see *Section 4.5, Other Zoning Districts*), the width of the stream is calculated as outlined in *Section 4.5.3.8.d, Calculating Width of Riparian Buffer*.

In all other cases, a buffer of fifty (50) feet in width measured from the most landward limit of the top of bank, normal water level or rooted herbaceous vegetation of surface waters identified in *Section 6.20.16.3, Applicability*.

6.20.16.7 Permitted Uses Within Riparian Buffers

It is the intent of this section to restrict the use of land adjacent to streams, ponds, lakes and reservoirs in order to reduce sedimentation and pollution. The following uses are permitted within a designated riparian buffer. All other land uses are prohibited.

Table 6.20.16.7 Permitted Uses within Riparian Buffers

Riparian Buffer Use		Allowable	Allowable w/Mitigation
Utilities	Perpendicular crossings of above ground and buried utility lines for local distribution of electricity, telephone, and cable television service, plus accessory and appurtenant apparatus such as poles, guy wires, transformers, and switching boxes, with a construction width of less than or equal to 40 feet and a 10-foot maintenance corridor.	X	
	Perpendicular utility crossings that exceed 40 feet of construction width and/or require more than a 10-foot maintenance corridor through the riparian buffer.		X
	Non-perpendicular riparian buffer impacts for utilities.		X
Water and Sewer	Perpendicular crossings of water and sewage distribution, collection, and treatment facilities, but not private in-ground sewage disposal facilities, with a construction width of less than or equal to 40 feet and a 10-foot maintenance corridor.	X	
	Perpendicular water and sewage crossings that exceed 40 feet of construction width and/or require more than a 10-foot maintenance corridor through the riparian buffer.		X
	Non-perpendicular riparian buffer impacts for public water and sewage distribution.		X
	Water wells	X	
Streets and Bridges	Perpendicular crossings of streets, bridges, and railroad rights-of-way impacting less than 150 feet of riparian buffer.	X	
	Perpendicular crossings of streets, bridges, and railroad rights-of-way that exceed 150 feet of riparian buffer impact.		X
	Temporary access roads disturbing less than 2,500 square feet of riparian buffer provided vegetation is restored within six months of initial disturbance.	X	
	Temporary roads disturbing more than 2,500 square feet of riparian buffer.		X
	Non-perpendicular riparian buffer impacts of streets and railroad rights-of-Way		X

Riparian Buffer Use		Allowable	Allowable w/Mitigation
Restoration	Stream restoration and/or stream bank stabilization.	X	
	Wetland restoration, in accordance with all applicable local, State and Federal regulations.	X	
	Removal of previous fill or debris provided that diffuse flow is maintained and any vegetation removed is restored.	X	
Stormwater Facilities	Maintenance of existing stormwater outfalls provided they are managed to minimize the sediment, nutrients, and other pollution they convey to waterbodies.	X	
	New drainage outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges into the riparian buffer.		X
	Engineered stormwater ponds, bioretention and wetlands provided that a riparian buffer meeting the requirements of Section 6.20.16.3 is established.	X	
	Engineered stormwater ponds, bioretention and wetlands where a riparian buffer cannot be established in accordance with Section 6.20.16.3.		X
Maintenance	Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Section 6.20.16.6 is established adjacent the new channel.	X	
	Maintenance activities of existing dams	X	
	Periodic maintenance of modified natural streams	X	
	Protection of existing structures, facilities and streambanks when this requires additional disturbance of the riparian buffer or the stream channel	X	
Miscellaneous	Greenways	X	
	Archeological research and excavation	X	
	Scientific studies and stream gauging	X	
	Fences provided that disturbance is minimized and existing trees and woody vegetation is not disturbed during installation and maintenance	X	
	Ponds in natural drainage ways (excluding dry ponds) provided that a riparian buffer meeting the requirements of Section 6.20.16.3 is established	X	
	Ponds in natural drainage ways (excluding dry ponds) where a riparian buffer cannot be established in accordance with Section 6.20.16.3		X
	Water dependent structures as defined in 15A NCAC 2B .0202	X	

6.20.16.8 Basis for “No Practical Alternatives”

In order for a permitted use to be authorized, the applicant must demonstrate “no practical alternatives.” The determination of “no practical alternatives” will be made by the Planning Director or designee based upon the following:

- 6.20.15.8.a** The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- 6.20.15.8.b** The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- 6.20.15.8.c** Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

6.20.16.9 Written Authorization Required

Proposed impacts from permitted uses to the riparian buffer may not commence until written authorization is provided by the Planning Director or designee. Use authorization may include conditions specific to the proposed activity. Unauthorized impacts to riparian buffers are subject to enforcement penalties as outlined in *Section 8, Enforcement*.

Prior to any land disturbing activity within a designated riparian buffer, the property owner shall provide written notification of the location and nature of the proposed use to the Planning Director or designee for review. Written notification must include the following:

- 6.20.16.9.a** The name, address and phone number of the applicant.
- 6.20.16.9.b** The nature of the activity to be conducted by the applicant.
- 6.20.16.9.c** The location of the activity.
- 6.20.16.9.d** A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in the riparian buffers associated with the activity, and the extent of the riparian buffers on the land; and
- 6.20.16.9.e** An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality.
- 6.20.16.9.f** Plans for any best management practices proposed to be used to control the impacts associated with the activity.

6.20.16.10 Diffuse Flow Requirement

- 6.20.16.10.a** Diffuse flow or runoff shall be maintained in the riparian buffer by dispersing concentrated flow and re-establishing vegetation.
- 6.20.16.10.b** Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters the riparian buffer.
- 6.20.16.10.c** Periodic corrective action to restore diffuse flow shall be taken if necessary to impede the formation of erosion gullies.

6.20.16.11 Mitigation

Where mitigation is required pursuant to the permitted uses listed in Section 6.20.16.6, *Permitted Uses Within Riparian Buffers*, mitigation shall follow the standards set out in the state’s consolidated Riparian Buffer Mitigation Rule, 15A NCAC 02B .0295.

6.20.16.12 Riparian Buffer and Minimum Lot Requirements

The riparian buffer may be used in meeting the required minimum lot areas set forth in the Ordinance.

6.20.16.13 Existing Vegetation and New Vegetation in Riparian buffers

Existing vegetation shall not be disturbed within a riparian buffer without prior approval of the Planning Director or designee. Existing vegetation may be augmented within the buffer and invasive vegetation may be removed if the Planning Director or designee approves the plans in advance. Any work done in the riparian buffer must be designed and intended to increase the infiltration capability of the buffer and reduce the velocity of stormwater run-off.

In the situation where the required buffer experiences erosion problems due to topography or other existing conditions of the land, the Planning Director or designee shall require that the buffer be planted so that it will function as a sediment and pollutant trap. Such planting shall be completed prior to the issuance of a Certificate of Occupancy.

The use of pesticides, herbicides, or chemicals is not allowed in the riparian buffer except with the prior approval of the Planning Director or designee, and only allowed as described within the Neuse Buffer Rules.

6.21 STREETS**6.21.1 PURPOSE AND INTENT**

It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the uniform construction of streets. Street rights-of-way are designed and developed to serve several functions: (i) to carry motor vehicle traffic, and in some cases, allow on-street parking; (ii) to provide a safe and convenient passageway for pedestrian traffic; and (iii) to serve as an important link in the town's drainage system.

6.21.2 APPLICABILITY

New or improved streets will generally be dedicated to the town or NC Department of Transportation. New or improved streets within town limits must comply with the town's standard specifications and its adopted street manual, including the submission of a Traffic Impact Analysis, if required. Private streets are generally permitted only in minor subdivisions and some developments where land ownership is not defined by the vehicle circulation system (*e.g.*, apartment complexes, shopping centers, or office parks). Allowable private streets are also regulated by this section.

6.21.3 DESIGN STANDARDS – PUBLIC STREETS

6.21.3.1 New public streets in the city limits must meet the Town of Hillsborough's *Standard Specifications for Street Construction* and Acceptance Procedures in the *Checklist and Approval Requirements for Utility Projects*.

6.21.3.2 Public streets in developments in the Town's extraterritorial zoning jurisdiction must be approved and accepted by the NC Department of Transportation.

6.21.3.3 Minimum right-of-way widths for public streets are as follows:

Minimum Right-of-Way (ROW) Widths by Public Street Type		
Public Street Type	Minimum ROW Width (ft.)	ROW Reduction Allowed
Arterial Street	100' (standard) or 150' (multi-lane boulevard)	No
Collector Street	70' (standard) or 120' (multi-lane boulevard)	New commercial/industrial streets only
Local Street	60'	New commercial/industrial streets only
Cul-de-sac	50'	No

6.21.3.4 In some cases, minimum right-of-way widths for new commercial/industrial streets may be reduced. Proposed cross-sections and dimensional standards must be submitted to the town for review and approval. A right-of-way reduction shall be granted only under the following conditions:

6.21.3.4.a The proposed street is either a commercial/industrial local street or a commercial/industrial collector street as defined in the town's Street Manual;

6.21.3.4.b On-street parking is omitted from the proposed street design;

6.21.3.4.c The right-of-way is reduced by no more than the width of the omitted on-street parking; and

6.21.3.4.d The right-of-way reduction does not impact any other design elements required in the Street Manual, including but not limited to minimum width requirements for travel lanes, planting strips, and/or sidewalks.

6.21.3.5 Additional street right-of-way may be required in cases where underground public utilities, sidewalks, and drainage facilities cannot all be located within the minimum stated above.**6.21.3.6** Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at an angle less than sixty (60) degrees.**6.21.3.7** The proposed street layout shall be coordinated with the existing street system of the surrounding area and with the Hillsborough Thoroughfare Plan. Where possible proposed streets shall be the extension of existing streets. Modification of the existing grid pattern may be allowed to accommodate site topography.**6.21.3.8** To maximize connectivity for public safety and avoid the requirement for additional right of way width improvement and dedication, block lengths will generally not exceed 400 feet and there will be two points of access for any street containing 30 or more dwellings not equipped with individual sprinkler systems.**6.21.3.9** All permanent dead-end streets (as opposed to temporary dead-end streets or stub-outs) shall be developed as cul-de-sacs in accordance with the standards set forth in the North

Carolina Fire Prevention Code. To avoid the requirement of additional right of way width improvement and dedication, dead-end streets may not exceed 400 feet in length.

- 6.21.3.10** Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of an important street.
- 6.21.3.11** Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersection on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.
- 6.21.3.12** Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.
- 6.21.3.13** The permit issuing authority may require the applicant to extend a right of way, build the street, and/or provide a temporary cul-de-sac in order to stub out streets that should be connected to existing or proposed streets outside the subdivision.

6.21.4 DESIGN STANDARDS - PRIVATE STREETS

- 6.21.4.1** Any private street within a non-residential or multi-family development must meet the design standards for town public streets.
- 6.21.4.2** Any private street within a minor residential subdivision must be designed in compliance with the North Carolina Fire Prevention Code, which generally requires a twenty-foot wide improved travel way. Associated drainage facilities must be located in the right of way. Underground utilities may be located within the street right of way or in a separate utility easement. Factors such as the length and alignment of the street and the use of sprinklers in individual buildings may impact the travel way or right of way required by the North Carolina Fire Prevention Code.
- 6.21.4.3** A private street within a minor residential subdivision may be required to provide a right of way of fifty (50) feet if the land and lots are arranged to allow the potential conversion of the street to a public street. If the lot arrangement, surrounding development pattern, zoning, and existing town plans indicate conversion is unlikely, the permit issuing authority may allow a private street to reduce the right of way width to no less than 18 feet.
- 6.21.4.4** Lots for single-family detached dwellings may be created with access to a private street provided that:
 - 6.21.4.4.a** No more than four (4) lots may have their sole access to the private street.
 - 6.21.4.4.b** A new private street shall not be an extension of any existing public or private street.
 - 6.21.4.4.c** A new private street shall not be aligned with an existing public street in such a way as may interfere with any planned extension of the public street.
- 6.21.4.5** The intent of this subsection is primarily to allow the creation of not more than four (4) lots with frontage on a private street for single-family development. Therefore, the Town may not approve any project served by a private street authorized by this subsection in which one

(1) or more of the lots thereby created is intended for:

6.21.4.5.a Two-family or multi-family residential use, or

6.21.4.5.b Any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences.

6.21.4.6 To ensure that the intent of this subsection is not subverted, the Town may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential development served by a private street be smaller than the permissible size of lots on which two-family or multi-family developments could be located, or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final plat approval.

6.21.4.7 No final plat that shows lots served by private streets may be recorded unless the final plat contains the following notation:

“Further subdivision of any lot shown on this plat as served by a private street may be prohibited by the Town of Hillsborough *Unified Development Ordinance*.”

6.21.4.8 The recorded plat of any development that includes a private street shall clearly state that such street is a private street and must be accompanied by a private street maintenance agreement that is also recorded.

6.21.5 STREET NAMES AND SIGNS – PUBLIC AND PRIVATE STREETS

6.21.5.1 Names of streets which duplicate or can be confused with the names of existing streets within Orange County, shall not be approved. New street names shall be reviewed and approved by Orange County Information Technology so as to avoid duplication and/or unnecessary confusion caused by similar street names.

6.21.5.2 Extensions of existing and named streets shall bear the name of such existing streets.

6.21.5.3 House numbering will be assigned by the Planning Director in accordance with town policies.

6.21.5.4 Approved street name signs shall be erected by the applicant at the intersection of streets as specified in the *Manual of Uniform Traffic Devices*.

6.22 TREE PRESERVATION

6.22.1 PURPOSE AND INTENT

It is the intent of this section to protect and promote the public health, safety, and quality of life by requiring the preservation, maintenance, protection, and replanting of the tree coverage areas for new development and redevelopment.

6.22.2 APPLICABILITY

Every application for Site Plan, Special Use Permit, or grading plan for a site 10,000 sf or larger or any modification to any of the listed permit types

shall provide a tree inventory and protection plan. This plan shall also be included in the grading plan of the construction drawings for any of the review types listed.

Applicants submitting a grading plan as part of a Zoning Compliance Permit application where no

building or structure is proposed shall also submit a tree inventory and protection plan.

This section does not apply to forestry activities on land taxed on the basis of its present-use value as forestland in accordance with a forestry management plan prepared by a registered forester. Clear-cutting, grading, and/or foresting land in an effort to avoid tree preservation and the provisions of this section is prohibited. Land that is clear-cut, graded, or forested prior must wait a period of five (5) years before an application for Site Plan, Special Use Permit, or grading plan will be considered.

6.22.3 REQUIREMENTS

- 6.22.3.1** Grading and tree protection plans shall indicate the limits of the area to be disturbed which shall account for the extended tree drip lines and critical root zones of the trees. This limit shall be marked in the field with tree protection fencing and signs and shall be verified by Planning staff before any work begins onsite. No vehicles, equipment, or material storage shall encroach on the tree protection area or within the tree protection fencing during construction.
- 6.22.3.2** Tree inventories shall identify all stands of trees on site including the diameter (dbh) and species of canopy trees which are deciduous trees 12" dbh or greater and non-deciduous trees 24" or greater dbh. Plans shall clearly indicate the trees to be removed and those to remain.
- 6.22.3.3** For sites exceeding 20 acres, the applicant may provide 100' X 100' sample survey areas for each separate undisturbed portion of the site containing an acre or more.
- 6.22.3.4** When an application only approves the installation of infrastructure for a site and the creation of lots for single-family residential development, survey data is required within the disturbed areas of the site.
- 6.22.3.5** Tree protection plans shall have a table with the following information:
 - 6.22.3.5.a** the number of canopy trees to be removed
 - 6.22.3.5.b** the number of canopy trees being retained
 - 6.22.3.5.c** the number of canopy trees that are 24" or greater dbh to be removed
 - 6.22.3.5.d** the number of canopy trees that are 24" or greater dbh to be replaced
 - 6.22.3.5.e** the percentage of tree cover area before development
 - 6.22.3.5.f** the percentage of tree cover area after development.
- 6.22.3.6** A tree protection plan will show the tree coverage area before development and shall indicate which method was used to calculate the tree coverage area.

6.22.4 STANDARDS

- 6.22.4.1** Applications shall clearly state the number of canopy trees to be removed, along with an estimate of the number being retained on site.
- 6.22.4.2** Applications shall also include a calculation of percentage of the site covered by tree coverage area before and after development.
 - 6.22.4.2.a** For sites with existing, pre-development tree coverage area that covers 25% or less of the site, it is required that 12% tree coverage be retained.
 - 6.22.4.2.b** For sites with existing, pre-development tree coverage area that covers more than 25% but less than 50% of the site, it is required that 10% tree

coverage be retained.

6.22.4.2.c For sites with existing pre-development tree coverage area that covers more than 50% of the site, it is required that 8% tree coverage be retained.

6.22.4.2.d For sites with existing pre-development tree coverage area that covers less than 5%, there is no required tree coverage to be retained.

6.22.5 PRIORITY RETENTION AREAS

Priority areas for retention of existing trees and vegetation shall include the following (listed in priority order from highest priority to lowest priority):

- 6.22.5.1** Areas containing canopy trees 24" DBH or greater and their critical root zones
- 6.22.5.2** Areas containing groups or stands of mature trees that provide important design, parcel perimeter buffering, forest preservation, or wildlife functions.
- 6.22.5.3** Riparian buffers, wetlands, or wetland protection areas
- 6.22.5.4** Areas with a natural grade of 15% or more
- 6.22.5.5** Areas needed for required landscaping
- 6.22.5.6** Wildlife habitat or other sensitive natural areas.

6.22.6 REVEGETATION

- 6.22.6.1** If canopy trees are damaged or removed from the tree protection area shown on the approved grading plan, the applicant shall replant trees on an inch per inch basis based on caliper or trunk diameter the size of the removed canopy tree(s) elsewhere on the site, OR preserve an additional area on the site with comparable tree composition that is the same size as the area damaged. For example, if 6 canopy trees are improperly removed from a site, each with a 10" diameter trunk, 60" of new trees must be planted on site OR 60" worth of new canopy trees must be preserved on site.
- 6.22.6.2** Planted trees will be of a similar species, if available, and shall be a minimum of 2" caliper at time of planting.
- 6.22.6.3** If a site does not contain sufficient space to create healthy habitat for the needed replanting, the applicant may make a payment to the Town (to be used for planting by the Tree Board) in an amount equal to the cost of acquiring and planting the required trees OR may make the plantings elsewhere but within the development in which the site is located, if applicable.

6.22.7 REPLACEMENT OF CANOPY TREES

- 6.22.7.1** Canopy trees 24" dbh or greater that need to be removed due to site limitations and/or design constraints shall be replaced with two (2) 3" caliper trees onsite. Replacement trees shall be captured in the tree protection plan table outlined in 6.22.3.5 above and should be identified on the Landscape Plan sheet for the site.

6.22.8 MAINTENANCE

- 6.22.8.1** When new trees planted in accordance with this section die, are damaged, or are removed for any reason, they must be replaced during the next suitable planting season in a manner, quantity, and size consistent with the approved Landscape Plan.

6.23 WASTE MANAGEMENT AND RECYCLING

Plans for site and development waste management and recycling must comply with the Orange County Solid Waste Management Ordinance, provisions of the Town Code relative to solid waste service, and screening provisions in *Section 6.16, Screening*.

6.24 WASTEWATER DISPOSAL

Plans for a proposed public or community sewage system shall be approved by the Utilities Director, Health Department, or Director of the Division of Environmental Management, whichever is appropriate.

On-site septic tanks shall comply with *Section 4.5, Other Zoning Districts*, where applicable, and be approved by the Orange County Health Department and/or other agency with jurisdiction.

6.25 WATER SUPPLY

Plans for a proposed public or community sewage system shall be approved by the Utilities Director, Health Department, or Director of the Division of Environmental Management, whichever is appropriate.

7. NONCONFORMITIES

7.1 GENERAL APPLICABILITY

7.1.1 NONCONFORMITIES GENERALLY

Uses of land which do not conform to the requirements of this Ordinance may not be enlarged, expanded, nor altered, except in conformance with this Ordinance.

Nonconformities shall not be used as grounds for adding other prohibited uses or structures, nor for the enlarging by means of extension or expansion, except as specifically provided by this Ordinance.

7.1.2 COMPLETION OF NONCONFORMING PROJECTS

- 7.1.2.1** For purposes of this section, a nonconforming project shall include any structure, development, or undertaking that is incomplete at the effective date of this Ordinance, or amendment thereto, and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- 7.1.2.2** A nonconforming project for which a completed application has been submitted to and accepted by the Planning Director prior to the effective date of this Ordinance shall be reviewed in accordance with the standards applicable on the date the complete application was accepted.
- 7.1.2.3** Any nonconforming project for which a permit was issued under the previous Zoning Ordinance may be completed in accordance with the terms of such permit, so long as it remains unexpired and unrevoked.
- 7.1.2.4** If a permit has been issued for a nonconforming project and such permit remains unexpired and unrevoked, an applicant may seek modification of such permit from the permit issuing authority that granted the original permit, and such permit issuing authority may approve the requested modification if it determines that the proposed changes will result in a project that is not more nonconforming in terms of the present Ordinance than the project approved under the previous Ordinance.

7.1.3 CLASSIFICATION OF NONCONFORMITIES

Nonconformities are classified as:

- 7.1.3.1** Uses of major structures and premises (Section 7.2).
- 7.1.3.2** Characteristics of uses (Section 7.3) which were lawful but would be prohibited, regulated, or restricted by the enactment of this Ordinance or a subsequent amendment thereto.
- 7.1.3.3** Structures (Section 7.4) and/or
- 7.1.3.4** Lots (Section 7.5).

7.2 NONCONFORMING USES

7.2.1 INTENT CONCERNING NONCONFORMING USES: SPECIFICALLY DECLARED TO BE INCOMPATIBLE WITH PERMITTED USES

It is the intent of this Ordinance that nonconforming uses of land shall be considered to be incompatible with the permitted uses within the district(s) in which they are located. Such nonconforming uses shall not be enlarged or extended in any respect.

Once a nonconforming use has ceased to operate or has been discontinued for a period of 180 consecutive days, it may not be resumed and shall only be replaced with a conforming use.

7.2.2 CHANGE OF USE

7.2.2.1 General

A nonconforming use shall not be changed to any other nonconforming use, except as provided in Section 7.2.2.2, *Exceptions*.

7.2.2.2 Exceptions

Nonconforming residential, office, or personal services uses within a industrial or commercial base zoning district may be continued or replaced by another nonconforming residential, office, or personal service use, upon the issuance of a Zoning Compliance Permit based on the standards in Section 7.2.2.3.

Nonconforming non-residential uses within a residential zoning district may be replaced by another nonconforming non-residential use, upon the issuance of a Zoning Compliance Permit based on the standards in Section 7.2.2.3.

7.2.2.3 The Planning Director may issue a Zoning Compliance Permit for a replacement use described in Section 7.2.2.2, *Exceptions*, if the applicant substantiates that:

- 7.2.2.3.a** The proposed use is a permitted use in some zoning district with either Zoning Compliance Permit or site plan approval;
- 7.2.2.3.b** All the applicable requirements of this Ordinance must be met to the extent reasonably possible. Compliance with a requirement of this Ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking or increased landscaping does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created; and,
- 7.2.2.3.c** The proposed replacement use will have the same or less adverse impact on those most affected by it than the existing or previous nonconforming use, and will be equal or more compatible with the surrounding neighborhood than the existing or previous nonconforming use applied for. The applicant shall provide the following information for both the existing and proposed use to demonstrate to the Planning Director the existence of an equal or less adverse impact on the

surrounding areas:

- (a) Hours of operation.
- (b) Traffic generation by vehicle type.
- (c) Number of employees.
- (d) External changes to structure.
- (e) Noxious exposure
- (f) Customer traffic, including time of day and number of trips, and
- (g) Nature of use type.

7.2.2.3.d The cost of any reconstruction or renovation associated with the use change does not exceed one-third (1/3) of the existing structure's replacement cost (new) prior to the reconstruction or renovation. In cases where the reconstruction or renovation cost exceeds one-third (1/3) of the structure's replacement cost (new), then the use and structure must conform to the requirements of the district where located.

7.2.2.3.e In the case of a non-residential use in a residential zoning district, the structure is not reasonably suitable for a use allowed by right in the zoning district due to unique or unusual construction or characteristics.

7.3 NONCONFORMING CHARACTERISTICS OF USE

7.3.1 Conforming uses with nonconforming characteristics may continue to operate but shall not be expanded, altered, changed, or relocated in such a manner as to increase the degree of nonconformity.

7.3.2 Nonconforming characteristics which can reasonably be corrected shall be addressed during the review of a new site plan. For example, compliance may not be reasonably possible when compliance cannot be achieved without adding additional land to the lot, moving a substantial structure that is on a permanent foundation, or other significant site work. The permit-issuing authority may consider the cost of eliminating nonconforming characteristics in relation to the total project cost and the benefit to the community when determining what improvements are reasonable.

7.3.3 NONCONFORMING CHARACTERISTICS OF NONRESIDENTIALLY ZONED PROPERTIES

An applicant seeking a Zoning Compliance Permit for a change of use will not be required to correct identified non-conforming characteristics when all of the following are met on a non-residentially zoned site:

- 7.3.3.1** The non-conformities are related to non-compliance with provisions of Section 6 (excluding Section 6.20).
- 7.3.3.2** The use is permitted by right in the district and does not require a modification to a Special Use Permit to occupy the location in question.
- 7.3.3.3** The applicant either does not need a site plan or meets the site plan threshold for Planning Director only review.
- 7.3.3.4** The non-conforming characteristics are not being expanded or made more non-conforming in any way.
- 7.3.3.5** No new non-conformity is being established.
- 7.3.3.6** The site complies with requirements in Section 5.2 for the requested use (if applicable).

- 7.3.3.7** The renovation proposed by the applicant to occupy the building (including interior upfit) does not exceed thirty percent of the existing structure's value listed for tax purposes.

7.3.4 MULTIPLE DETACHED DWELLINGS ON A SINGLE PARCEL

The Town recognizes that some historic development patterns are inconsistent with modern requirements, and that some of the existing development patterns are part of the historic character of the Town. The Town finds that when such historic patterns persist into the present in a way that is consistent with the nearby surrounding development, it may advance the Town's interest in preserving its historic character to allow the inconsistent pattern to remain, but to regulate the inconsistent land use in a manner as consistent with the modern requirements as possible to prevent unintended consequences.

Therefore, where 2 or more detached single-family residential structures exist on a single lot in the R-10, R-15, or R-20 District as of February 17, 1986, the Planning Director may approve a plat to place each residential structure on an independent lot provided the plat shows:

- 7.3.4.1** That all lots have 30 feet of road frontage and access to a public road.
- 7.3.4.2** That all lots have no more than one single-family residential structure on the lot.
- 7.3.4.3** That all lots provide for minimum side yard setbacks of at least 2 feet and a rear yard setback of at least 2 feet.
- 7.3.4.4** The plat shall evenly divide the space between the existing structures, and
- 7.3.4.5** No more than 10 lots may be created from a single parcel pursuant to this section.

7.4 NONCONFORMING STRUCTURES

7.4.1 NONCONFORMING STRUCTURE, OTHER THAN SIGNS

A structure (other than a sign) which is nonconforming, due to non-compliance with one or more requirements in Section 6.3, *Dimensional Requirements*, of this Ordinance and which is used for a use permitted in the district in which located, may remain, provided:

- 7.4.1.1** That any structural change to the structure shall not increase the degree of nonconformity. Structural changes which decrease or do not affect the degree of nonconformity shall be permitted.
- 7.4.1.2** That a nonconforming commercial or industrial structure or portion thereof which is damaged by causes other than the intentional or reckless acts of the property owner or authorized agent to such an extent that the cost to repair does not exceed fifty (50) percent of the structure's taxable value, may be reconstructed. If such a structure is damaged by the intentional or reckless act of the property owner or authorized agent, or is otherwise damaged to such an extent that the cost to repair exceeds fifty (50%) percent of the structure's current tax value, or is destroyed, then the structure may not be reconstructed except in accordance with all requirements established by this Ordinance for the zoning district in which it is situated.
- 7.4.1.3** That a nonconforming residential structure, or a portion thereof which is destroyed, up to the fifty (50) percent of the structure's taxable value, may be reconstructed.

7.4.1.4 Nonconforming provisions related to signs are provided in Section 6.18, *Signage*.

7.4.2 ADDITIONS TO NONCONFORMING STRUCTURES

The Planning Director may issue a Zoning Compliance Permit to authorize an existing nonconforming structure to encroach upon a setback required in Section 6.3, *Dimensional Requirements*, provided:

- 7.4.2.1** The proposed encroachment results from an addition to or extension of an existing structure that already is nonconforming with respect to the requirements of Section 6.3, *Dimensional Requirements*; and
- 7.4.2.2** The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.

7.4.3 NONCONFORMING USES OF MAJOR STRUCTURES AND PREMISES IN COMBINATION

Nonconforming use of structures may be continued provided:

- 7.4.3.1** Such uses may not be enlarged, extended, altered, or replaced, except for to change to a use permitted in the district in which located, except as provided in Section 7.4.3.2 below.
- 7.4.3.2** A nonconforming use may be extended through portions of a building manifestly arranged or intended for such use, but not otherwise, and shall not extend to occupy land outside such building or any additional building not used for such nonconforming use at the time that nonconforming status was established.
- 7.4.3.3** If a nonconforming use ceases for more than one hundred eighty (180) consecutive days, subsequent use shall conform to the regulations of the district in which it is located.

7.4.4 NONCONFORMING STRUCTURES UNSAFE FOR REASONS OTHER THAN LACK OF MAINTENANCE

Nonconforming structures or portions thereof, which the Planning Director has declared unsafe, but not because of lack of maintenance, may be repaired and restored to the extent required to make them safe unless this would violate those provisions of Section 7.4.1, *Nonconforming Structure Other than Signs*.

7.5 NONCONFORMING LOTS OF RECORD

7.5.1 COMBINATION OF CONTIGUOUS NONCONFORMING LOTS IN SINGLE OWNERSHIP

Undeveloped nonconforming lots shall be combined to create less nonconforming lots when all of the following apply:

- 7.5.1.1** The lots are held in single ownership at the time of permit application.
- 7.5.1.2** The lots have continuous street frontage.
- 7.5.1.3** One or more of the lots is less than 40 feet wide, when measured at the front setback line
- 7.5.1.4** The lots are lots of record as defined by this ordinance, were created by a public taking action, or were created as a result of a court order.

If the resultant lot is still nonconforming, it may be developed subject to Section 7.5.3, *Nonconforming Lot Setback Requirements*, as if the lot was created prior to February 17, 1986.

7.5.2 USE OF NONCONFORMING LOTS

- 7.5.2.1** Any single nonconforming lot of record may be developed, used, and occupied for the purposes defined by its zoning classification if combination with adjoining lots is not required under 7.5.1, *Combination of Contiguous Nonconforming Lots in Single Ownership*.
- 7.5.2.2** The setbacks for these lots shall be defined in Section 7.5.3, *Nonconforming Lot Setback Requirements*, as if the lot was created prior to February 17, 1986.

7.5.3 NONCONFORMING LOT SETBACK REQUIREMENTS

- 7.5.3.1** This subsection shall apply to any of the following:
- 7.5.3.1.a** A single residential lot created before February 17, 1986, that is nonconforming based solely on its area or width, or
 - 7.5.3.1.b** Lots created under subsection 7.3.4, *Multiple Detached Dwellings on a Single Parcel*.
 - 7.5.3.1.c** Lot line adjustments, combinations or partial combinations made to lots referenced in (a) or (b) above where the lot(s) or resultant lot(s) remain nonconforming as to area or width after such action is taken.
- 7.5.3.2** The following table indicates the degree to which otherwise applicable setback standards may be reduced; provided, however, no setback shall ever be less than 10 feet in width.

7.5.4 TABLE: NONCONFORMING LOT SETBACK REQUIREMENTS¹			
DISTRICT	CUMULATIVE SIDE SETBACKS SHALL NOT BE REQUIRED TO EXCEED^{2,3}	REAR SETBACK SHALL NOT BE REQUIRED TO EXCEED⁴	FRONT SETBACK SHALL NOT BE REQUIRED TO EXCEED⁴
R-40	50%	25%	25%
R-20	40%	11%	15%
R-15	40%	10%	15%
R-10	40%	13%	17%
AR	40%	15%	19%

¹ For lots that are not rectilinear, each side, front, and rear setbacks should be measured separately.

² Lot width as measured at the standard front setback line for the district in which the lot is located shall be used.

³ Cumulative side setbacks should but are not required to be evenly distributed on a property, such that both side setbacks are the same length.

⁴ Lot depth measured using the shortest lot line shall be used.

8. ENFORCEMENT

8.1 PURPOSE AND APPLICABILITY

8.1.1 This section establishes procedures the Town may use to enforce the provisions of this Ordinance, and penalties for use in its enforcement.

8.1.2 This section applies to any matter deemed a violation of this Ordinance.

8.2 VIOLATIONS

Each of the following is a violation of this Ordinance and subject to the remedies and penalties provided by this section and state law.

8.2.1 Development without Permit

Engaging in any development, use, construction, remodeling, or other activity of any nature regulated by this Ordinance without first obtaining all required permits, certificates or other forms of authorization required by this Ordinance.

8.2.2 Development Inconsistent with Permit

Engaging in any development, use, construction, remodeling, alteration of a site or landscape features, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity. This includes non-performance of routine and regular maintenance that does not sustain an approved development to the standards set forth in the development or permit approval.

8.2.3 Violation by Act or Omission

Violation by act or omission of any term, variance, modification, condition, or qualification placed by the Town Board, its agent boards or staff upon any required permit, certificate, or other form of authorization for the use, development or other activity upon land or improvements thereon.

8.2.4 Use in Violation

The erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building or structure, or the use of any land in violation or contravention of this Ordinance, or any other regulation made under this Ordinance.

8.2.5 Subdivide in Violation

Subdivision of land in violation of this Ordinance, or transferring or selling land by reference to, exhibition of or any other use of a plat or map showing a subdivision of land before the plat or map has been approved under this Ordinance and recorded in the Orange County Register of Deeds office. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

8.2.6 Violations of Referenced Manuals

Violation of any adopted manuals, standards, or other documents for which this Ordinance

requires compliance.

8.2.7 Violations of Conditions of Approval

Violation of any conditions attached to a variance, Special Use Permit or other development approval authorized or required by this Ordinance.

8.2.8 Continue a Violation

Continuing any of the above violations is a separate and distinct offense. Each day that a violation continues constitutes a new and separate violation.

8.3 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains (actively or passively) any situation contrary to the requirements of this Ordinance, may be held responsible for the violation and be subject to the penalties provided herein.

8.4 INSPECTIONS AND INVESTIGATIONS

8.4.1 Inspections

Staff may upon presentation of proper credentials or inspection warrant, if necessary, enter onto any public or private property or premises within the Town's planning jurisdiction at any reasonable hour for purposes of inspection, determination of plan compliance, investigation of any complaints or violations, or other enforcement action. No person may obstruct, hamper, or interfere with staff while they carry out their duties.

8.4.2 Supporting Documentation

Staff may require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations.

8.4.3 Failure to Comply

Staff's failure to observe or recognize conditions that violate this Ordinance does not relieve the responsible person(s) from responsibility for the resulting conditions or damages, if any, and does not result in staff liability for such conditions or damages.

8.5 ENFORCEMENT PROCEDURE

8.5.1 Enforcement Procedure

Staff, after inspecting/investigating an alleged violation and determining a violation exists, will notify the responsible person(s) of the violation.

8.5.2 Notice of Violation

- (a) Staff will give the responsible person(s) written notice by either certified or registered mail, first class mail, personal delivery, electronic delivery, or posting a notice conspicuously on the property, of the following:

- (1) that the land, building, structure, sign, or use is in violation of this Ordinance;
 - (2) the nature of the violation including citation of the Ordinance provision or permit condition violated;
 - (3) necessary measures required to correct the violation;
 - (4) the date in which the violation must be corrected;
 - (5) that penalties may be assessed, or other corrective remedies pursued; and
 - (6) that the responsible person(s) has the right to appeal the Notice to the Board of Adjustment as specified in subsection 3.11, Appeal, of this Ordinance.
- (b) If the notice by first class mail is not returned within 10 days of its mailing, and the registered or certified mail is returned, refused or unclaimed, service by first class mail shall be deemed sufficient. If only the notice by first class mail is used, a notice of violation shall also be posted in a conspicuous place on the premises in violation.

8.5.3 Failure to Comply with Notice

Responsible persons failing to comply with a Notice of Violation where no appeal was taken, or the Board of Adjustment's final decision following an appeal are upheld, are subject to the remedies and penalties provided by state law and subsection 8.6, Remedies, of this Ordinance.

8.6 REMEDIES

8.6.1 Cumulative

All available remedies for violations of this Ordinance are cumulative. To the extent North Carolina law may limit the availability of a particular remedy for a certain violation, that remedy remains available for other violations or parts of the same violation.

8.6.2 Repeat Violations

Responsible person(s) who repeat the same violation within a two-year period from the initial violation date will be considered in continued violation of the initial violation and subject to additional penalties and remedies.

8.6.3 Referral to Town Attorney

In addition to other remedies provided by law, whenever the Planning Director has reasonable cause to believe that any person is violating this Ordinance, the matter may be referred to the Town Attorney.

8.6.4 Available Remedies

Any or all the following penalties and remedies may be used in enforcing this Ordinance.

8.6.4.1 Injunction or Other Relief

Violations of this Ordinance or of any permit condition, order, requirement, or remedy adopted pursuant to this Ordinance may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law. Institution of an action for injunctive relief does not relieve any party to such proceedings from issuance of civil penalties.

8.6.4.2 Civil Penalties

Responsible persons violating any provision of this Ordinance may be subject to the assessment of a civil penalty in accordance with subsection 8.7, Civil Penalty Assessment.

8.6.4.3 Conditional Permit or Temporary Certificate

Staff may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security in an amount using the calculation method specified by paragraph 3.14.12, Authorizing Occupancy Before Completion of Development.

8.6.4.4 Stop Work Orders

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, staff may order the work to be immediately stopped. The stop work order must be directed to the owner, occupant, or person doing the work and state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Delivery shall be by personal delivery, electronic delivery, or first-class mail.

8.6.4.5 Revocation of Permits or Certificates

- (a) Zoning Compliance Permits: Staff may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits or certificates may be revoked for any substantial departure from the approved application, plans, or specifications, the refusal or failure to comply with the requirements of state or local laws, or false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable state or local law may also be revoked.
- (b) Special Use Permits: Before a Special Use Permit may be revoked, all the notice, hearing, and other applicable requirements of subsection 3.8, Special Use Permit, shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation. In hearing cases involving Special Use Permit

revocation:

1. The burden of presenting evidence sufficient to authorize the Board of Adjustment to conclude that a Special Use Permit should be revoked shall be upon the party advocating that position.
2. The burden of persuasion shall also be upon that party. A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

8.6.4.6 Denial of Permits or Certificates

Staff may deny issuance of a Zoning Compliance Permit or refuse to sign off on a Certificate of Occupancy/Compliance relative to property on which a violation exists. Additionally, staff may recommend denial of any permit, certificate or approval sought from a Town-appointed board charged with issuing permits, certificates, and approvals by this Ordinance if there are ongoing violations on the property for which such permit is sought.

8.6.4.7 Abatement

- (a) The Planning Director is authorized to summarily abate any violation that continues to exist after the expiration of the correction period provided in subsection 8.7, Civil Penalty Assessment.
- (b) The expense of the action shall be paid by the responsible person(s) in default.
- (c) If the expense is not paid, it is a lien on the land or premises where the abatement action occurred. The lien shall have the same priority and be collected as unpaid ad valorem taxes.
- (d) The expense of the action is also a lien on any other real property within the Town's planning jurisdiction owned by the responsible person(s) in default, except for the responsible person's primary residence. This secondary lien is inferior to all prior liens and shall be collected as a money judgment.
- (e) The provisions of this sub-paragraph do not apply if the responsible person(s) in default can show that the violation was created solely by the actions of another.

8.6.4.8 State and Common Law Remedies

In addition to other enforcement provisions contained in this subsection, the Town may exercise all enforcement powers granted to it by state law or common law.

8.6.4.9 Previous Enforcement

Nothing in this Ordinance prohibits continuation of previous enforcement actions.

8.7 CIVIL PENALTY ASSESSMENT

8.7.1 Notice

Civil penalties may not be assessed until the responsible person(s) alleged to be in violation has been notified in accordance with paragraph 8.5.2, Notice of Violation. If the responsible person(s) fails to take corrective action or file an appeal after receiving notice, then a civil penalty may be imposed in the form of a citation. The citation shall be served in the same manner as a notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed, and direct the responsible person(s) to pay the civil penalty within 15 days of the citation's issuance date.

8.7.2 Continuing Violations

The responsible person(s) will be guilty of an additional and separate offense, and subject to an additional civil penalty, for each day the violation remains uncorrected.

8.7.3 Penalty Amounts

8.7.3.1 Civil Penalties for Violations Excepting Stormwater Management Violations: The following table contains the schedule for civil penalty assessments that may be levied for violations of all sections of this Ordinance excepting subsection 6.20, Stormwater Management (see item 8.7.3.2, Civil Penalties for Stormwater Management Violations, below):

Notice	Civil Penalty Amount
1 st Violation	\$200.00
2 nd Violation	\$300.00
3 rd Violation	\$400.00
4 th and Subsequent Violations	\$500.00

8.7.3.2 Civil Penalties for Stormwater Management Violations: Civil penalties for violations of subsection 6.20, Stormwater Management, are set by NCGS 143-215.6A. The statutory civil penalty limit is \$25,000.00 per violation and, for continuous violations, \$25,000.00 per violation per day.

8.7.4 Demand for Payment

8.7.4.1 Notice

Staff will determine the civil penalty amount to be assessed and make written demand for payment upon the responsible person(s). The demand must include a description of the violation. Separate notices must be provided for the first, second, third and fourth violation. Penalties may be assessed and accrue daily, without further notice to the responsible person(s) after the fourth notice is sent.

8.7.4.2 Referral to Town Attorney

If payment is not received within 30 days after written demand for payment is made, the Planning Director may refer the matter to the Town Attorney who is authorized to institute a civil action in the name of the Town in the appropriate division of the General Court of Justice for recovery of the penalty.

8.7.4.3 Adjustment

Staff may reduce the assessed penalties based on criteria set forth in 8.7.4.5. Modification of penalties is at the sole discretion of the Planning Director.

8.7.4.4 Nonpayment

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the Town Attorney to institute a civil action for recovery of the penalty.

8.7.4.5 Factors to Consider in Assessing Penalties

Civil penalties shall be assessed where new and continuing violations of this ordinance exist. Adjustments may be granted when requested in writing by the responsible person(s) outlining the justifications of such adjustments. Situations involving adjustments may include performance-based progress made on violations. No adjustments shall be issued for a lack of timely action by responsible person(s).

8.8 PREVENTION OF DEMOLITION BY NEGLECT**8.8.1 INTENT**

The purpose of this Ordinance is to permit the Town of Hillsborough, through its Historic District Commission and its Planning Department, to protect the Town's historic architectural resources by intervening when a significant resource is undergoing demolition by neglect.

Demolition by neglect occurs when the condition of an improved property located in the Historic District is deteriorating in such a way as to threaten the structural integrity or the relevant, significant architectural detail of the structure such that the structure or its character may be lost to current and future generations.

A significant resource, as the term is used in this Ordinance, is defined as any property, structure or architectural resource designated as an historic landmark, or designated as "contributing" in the Hillsborough Historic District's nomination to the National Register of Historic Places, or in the Hillsborough Historic District Architectural Inventory of 1996, or which has gained significance through amendments to the 1996 Inventory prepared by an architectural historian.

8.8.2 STANDARDS

The exterior features of the building or structure found to have significance (the term is defined above) located within the Historic District shall be preserved by the owner, or such other person as may have legal possession, custody, and control thereof, against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and

control, shall upon written request by the Town, stabilize or repair the exterior features of a significant building or structure if they are found to be deteriorating, or if their condition is contributing to deterioration of the property or the district. The following conditions are examples of (by way of illustration, but not limitation) defects which may constitute, or result in a finding of, demolition by neglect:

- 8.8.2.1** Deterioration of exterior walls, foundations, or other vertical support which results in leaning, sagging, splitting, listing, or buckling,
- 8.8.2.2** Deterioration of flooring or floor supports, roofs, or other horizontal members which results in leaning, sagging, splitting, listing, or buckling,
- 8.8.2.3** Deterioration of external chimneys which results in leaning, sagging, splitting, listing, or buckling of the chimney,
- 8.8.2.4** Deterioration or crumbling of exterior plasters or mortars where there is evidence that such condition exposes structural elements to decay,
- 8.8.2.5** Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors or broken or malfunctioning gutters,
- 8.8.2.6** Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering,
- 8.8.2.7** Rotting, holes, and other forms of decay where there is evidence that such condition has exposed structural elements,
- 8.8.2.8** Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling,
- 8.8.2.9** Deterioration of contributing accessory structures; or
- 8.8.2.10** Overgrown plants/landscaping features which threaten the structural integrity or relevant, significant architectural detail of a structure.

8.8.3 PROCEDURE FOR ENFORCEMENT

- 8.8.3.1** Any citizen who believes demolition by neglect is occurring with respect to any particular property in the Historic District, may make a written complaint to the Planning Director. The Planning Director may also initiate this enforcement process by filing a written complaint. Such a complaint must include a clear description of the property and the nature of the deterioration claimed to constitute demolition by neglect.
- 8.8.3.2** Upon the receipt of a complaint, the Planning Director will conduct a preliminary investigation and prepare a staff report concerning the property which is the subject of the complaint. The Planning Director may inspect the entire property as part of their investigation and is not limited in their investigation to the specific conditions identified in the original complaint. The Planning Director who makes the preliminary investigation may

consult with professionals including, but not limited to, architects, landscape architects, engineers, building inspectors and historic preservationists, during the investigation.

- 8.8.3.3** The Planning Director shall make a written report of their preliminary inspection. If, upon investigation, the Planning Director determines that a structure may be undergoing demolition by neglect, they will notify the property owner in writing that a complaint and staff report concerning the property will be brought before the Historic District Commission at a meeting held no fewer than thirty (30) days nor more than sixty (60) days from the date of the notice. If the preliminary investigation does not substantiate the complaint, the complaint will be considered resolved and no further action will be taken.
- 8.8.3.4** The notice to the property owner shall include a copy of the Planning Director's staff report concerning the structure, a description of the demolition by neglect review process, how the property owner can resolve the issue immediately, and a list of financial resources which may be available to assist the owner.
- 8.8.3.5** The Planning Director will forward the complaint and staff report to the Historic District Commission to be considered at its next regularly scheduled meeting within the time period described in Section 8.8.3.3 above.
- 8.8.3.6** The Historic District Commission will review the complaint and staff report at a regular meeting.
- 8.8.3.7** If the Historic District Commission finds that the structure may be undergoing demolition by neglect, it shall file an order directing the Planning Director conduct an administrative hearing to determine whether the subject property is undergoing demolition by neglect. The order shall describe the demolition by neglect found during the Planning Director's preliminary inspection of the full property.
- 8.8.3.8** Whenever such an order is filed with the Planning Director, a copy shall be mailed to the property owner or such other person as may have legal possession, custody or control of the property. The Planning Director shall also issue and cause to be delivered to the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a written Notice stating that the Historic District Commission has reason to believe that the property is undergoing demolition by neglect, identifying the specific condition(s) at the property which have led to that determination, and advising that an administrative hearing will be held before the Planning Director at a place within the Town not less than thirty (30) nor more than forty-five (45) days from the date of the Notice; that the owner and/or parties in interest have the right to answer and to give testimony at the administrative hearing. The Historic District Commission shall also be given notice of the administrative hearing. The rules of evidence prevailing in courts of law or equity shall not be controlling in administrative hearings before the Planning Director. The purpose of the administrative hearing is to receive evidence concerning the preliminary finding of demolition by neglect and to ascertain whether the owner and/or other parties in interest wish to file a claim of economic hardship with the Historic District Commission.
- 8.8.3.9** If after such administrative hearing, the Planning Director determines that the structure is undergoing demolition by neglect because it is affected by one (1) or more of the conditions

set out in Section 8.8.2, *Standards*, the Planning Director shall state in writing the findings of fact in support of such determination and shall issue and cause to be delivered to the owner and/or responsible persons (Section 8.3, *Responsible Persons*) an Order to Repair. The Order to Repair shall describe those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated and which serve as the basis of the determination. The Owner and/or other responsible person shall have ten (10) business days from the date of the Planning Director's written Order to Repair within which to file with the Historic District Commission a written petition for a claim of undue economic hardship. In the event that the owner and/or responsible person wishes to Petition for a claim of undue economic hardship, the Planning Director's Order to Repair shall be stayed until after the Historic District Commission's determination in accordance with the procedures of this code, except as provided in the Section 8.8.9, *Other Town Powers*.

- 8.8.3.10** The commencement and prosecution of work pursuant to the Order of Repair shall stay further enforcement activity under this Section 8.8.3, *Procedure for Enforcement*.

8.8.4 EVIDENCE OF UNDUE ECONOMIC HARDSHIP

The Owner or responsible person claiming undue economic hardship bears the burden of presenting sufficient evidence to allow the Historic District Commission to determine that undue economic hardship exists. Such evidence shall include at least the following:

8.8.4.1 For All Properties:

- 8.8.4.1.a** Nature of property ownership (individual, business, or nonprofit) or other legal possession, custody, or control.
- 8.8.4.1.b** A description of the structures involved.
- 8.8.4.1.c** Petitioner's financial resources.
- 8.8.4.1.d** Cost of required repairs or other corrective measures.
- 8.8.4.1.e** Assessed value of the land and improvements.
- 8.8.4.1.f** Real estate taxes for the previous two (2) years.
- 8.8.4.1.g** Amount paid for the property.
- 8.8.4.1.h** Date of purchase.
- 8.8.4.1.i** Party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
- 8.8.4.1.j** Annual debt service, if any, for previous two (2) years.
- 8.8.4.1.k** Any listing of the property for sale or rent, price asked, and offers received, if any, and
- 8.8.4.1.l** Any potential grants or funding sources available to help improve the property.

8.8.4.2 For Income-Producing Properties:

- 8.8.4.2.a** If the property is income-producing, the annual gross income from the property for the previous two (2) years;
- 8.8.4.2.b** Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed; and
- 8.8.4.2.c** Annual cash flow, if any, for the previous two (2) years.

8.8.5 METHODS OF SERVICE

Notices or orders issued pursuant to Section 8.8.3, *Procedure for Enforcement*, shall be transmitted by first class mail to the owner of the property as listed in the Orange County Tax office and to the occupant of the property at the property's mailing address. All notices and orders shall be presumed to be received by the addresses five (5) days from the date of mailing.

8.8.6 SAFEGUARDS FROM UNDUE ECONOMIC HARDSHIP

Undue economic hardship is defined as the property owner's financial inability to make the repairs specified in the Order to Repair pursuant to Section 8.8.3.9. A claim of undue economic hardship must be made, in writing, by filing a request for such a determination with the Planning Director within the time period specified for in Section 8.8.3.9. The determination of undue economic hardship will be made by the Historic District Commission on a case by case basis.

When a claim of undue economic hardship is made, Planning Director shall notify the Commission within five (5) business days following the Planning Director's receipt of the written request for a determination of undue hardship. The Commission shall schedule a hearing at its next available meeting.

The property owner and/or the responsible person shall present the information provided by Section 8.8.4.1, *For All Properties*, and, where appropriate, 8.8.4.2, *For Income Producing Properties*, to the Historic District Commission at least ten (10) days before the date of the hearing. The Commission may require that an owner and/or parties in interest furnish such additional information as the Commission may reasonable conclude is relevant to its determination of undue economic hardship, and may, in its sole discretion, hold the hearing open or close the hearing and allow the owner or party in interest additional time to furnish the requested additional information. The Commission may direct Planning Director to furnish additional information, as the Commission believes is relevant. The Commission shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.

8.8.7 COMMISSION'S DECISION ON CLAIM OF UNDUE HARDSHIP

- 8.8.7.1** Within sixty (60) days following the Commission's HEARING on the claim of undue economic hardship, the Commission shall make a determination whether undue economic hardship exists and shall enter the reasons for such determination into the record. In the event of a

finding of no undue economic hardship, the Commission shall report such finding to the Planning Director, and the Planning Director shall cause to be issued an Order to Repair the property within a specified time.

- 8.8.7.2** In the event of a determination that undue economic hardship exists, the finding shall be accompanied by recommended options that may be available to the property owner to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the Town, the County, or other public, private, or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship. The Commission shall report such finding and plan to the Planning Director. The Planning Director shall cause to be issued an Order to Repair the property within a specified time.

8.8.8 APPEALS

Determinations made by the Planning Director pursuant to Section 8.8.3, *Procedure for Enforcement*, or by the Commission pursuant to Section 8.8.3, *Procedure for Enforcement* or Section 8.8.7, *Commission's Decision on Claim of Undue Hardship*, may be appealed to the Board of Adjustment. To perfect such an appeal, a written application must be filed by an aggrieved party with the Board of Adjustment within thirty (30) calendar days of the date the determination was mailed to the property owner. Appeals shall be in the nature of certiorari (review of a quasi-judicial decision) such that the Board of Adjustment may review the record of the proceedings before the Planning Director or the Commission (as the case may be) to ensure that all procedures required by this Ordinance have been followed, and to ensure that the decision appealed from is supported by competent evidence in the record. However, the Board of Adjustment may not substitute its judgment for that of the Planning Director or the Historic District Commission unless it concludes that either (i) there has been an error of law or procedural error which has resulted in prejudice to the appellant or (ii) there is not substantial, competent evidence in the record to support the decision.

8.8.9 OTHER TOWN POWERS

Nothing contained within this Article shall diminish the Town's power to declare an unsafe building or a violation of the minimum housing code.

8.8.10 PENALTIES AND REMEDIES

Enforcement of this article may be by any one (1) or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

8.8.10.1 Equitable Remedy

The Town may apply for any appropriate equitable remedy to enforce the provisions of this article.

8.8.10.2 Order of Abatement

The Town may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be

taken that is necessary to bring the property into compliance with this article. Whenever the party is cited for contempt by the court and the Town executed the order of abatement, the Town shall have a lien, in the nature of a mechanic's and material man's, on the property for the cost of executing the order of abatement.

8.8.10.3 Civil Penalty

No civil penalty shall be levied unless and until the Planning Director transmits a notice thereof to the property owner by first class mail. The notice shall also set forth the time period, not less than ten (10) days, within which corrective measures must be commenced and shall establish a deadline for completion of the work. The notice shall state that failure to either (i) commence the work or (ii) complete the work, within the specified time period will result in the assessment of civil penalties and other enforcement action the civil penalty shall be assessed in the amount of one hundred dollars (\$100.00) per day of continuing violation.

9. DEFINITIONS

9.1 RULES OF MEASUREMENT, COMPUTATIONS, AND EXCEPTIONS

9.1.1 PURPOSE

The purpose of this section is to clarify the general rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. This Ordinance may establish other standards for specific circumstances or situations, which specific standards supersede these general rules.

9.1.2 DISTANCE MEASUREMENTS, GENERALLY

Unless otherwise expressly stated, distances between points specified in this Ordinance are to be measured as the length of an imaginary straight line joining those points. Unless otherwise expressly stated, measurements determining the spacing between uses are to be taken from property line to nearest property line as a straight-line measurement.

9.1.3 LOT MEASUREMENTS

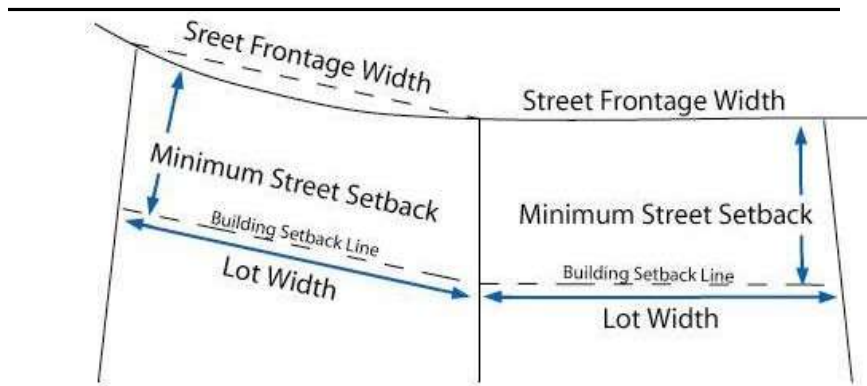
9.1.3.1 Lot Area

The area of a lot includes the total horizontal surface area within the lot's boundaries exclusive of rights of way or easement for streets (public or private) or access to other property. Utility and similar encumbrances are included in the lot area.

9.1.3.2 Lot Width

Lot width is the distance between the side lot lines measured along the front building setback line. In cases where a structure is "condominiumized," or the interior floor area of a structure is owned by different owners, the zoning district lot width requirements shall apply only to the parent tract or development site, not the individual ownership units.

The permit issuing authority may allow the creation of new residential lots that do not meet the minimum lot width requirement at the front setback line if the sole reason for not meeting the minimum width is due to the reduced lot frontage on the public or private road created by the end of a cul de sac, provided the required lot width is met within 75' measured from the edge of the right of way. The permit issuing authority may also allow construction in front of the lot width line, so long as the front setback is not less than the district minimum when measured from the edge of the right of way.

Figure 9-1: Lot Width

9.1.4 DWELLING UNIT YIELD

- 9.1.4.1** The dwelling unit yield (total number of dwelling units allowed for a development tract) shall be determined by dividing the total area of land (in square feet) within the development tract by the minimum lot area established by the zoning district in which the development tract is located. For example, if a development tract contains 4.5 acres that translates to 196,020 SF. If that development tract is zoned R-10, 19.6 dwelling units would be the yield on that tract. Nineteen lots could be created from this parcel, assuming they all met the other dimensional requirements in the ordinance.
- 9.1.4.2** For sites being developed as attached dwellings, in cases where a site's acreage allows a gross density that exceeds a whole number by 0.51 or more, the total density may be rounded up to the next whole number, thus allowing an additional dwelling unit to be located on a site.

9.1.5 SETBACKS

Setbacks are defined for each zoning district in Section 6.3, *Dimensional Requirements*. All structures and buildings must meet the setback requirements stated, unless the permit issuing authority modifies such setback pursuant to authority granted by this Ordinance, or dimensional variance is granted by the Board of Adjustment in accordance with Section 3.10.

9.1.5.1 Setback Measurements

- 9.1.5.1.a** A setback from a property line shall be measured as the shortest perpendicular distance from the property line to the structure.
- 9.1.5.1.b** When that property line is adjacent to or overlaps with a public street right of way, a setback shall be measured from the street right-of-way line as such line is readily determinable in the field or by reference to a recorded map, set irons, or other means. If no recorded documents or set irons can be located or identified for the right of way, any identified property corners will be used.
- 9.1.5.1.c** Lots with zoning designations in the "proposed" column of Table 6.3.3 shall observe the required setback in Table 6.3.2 for that zoning district for any setback adjacent to a public street.
- 9.1.5.1.d** Lots encumbered with private street rights of way shall measure their setback from the right of way boundary.

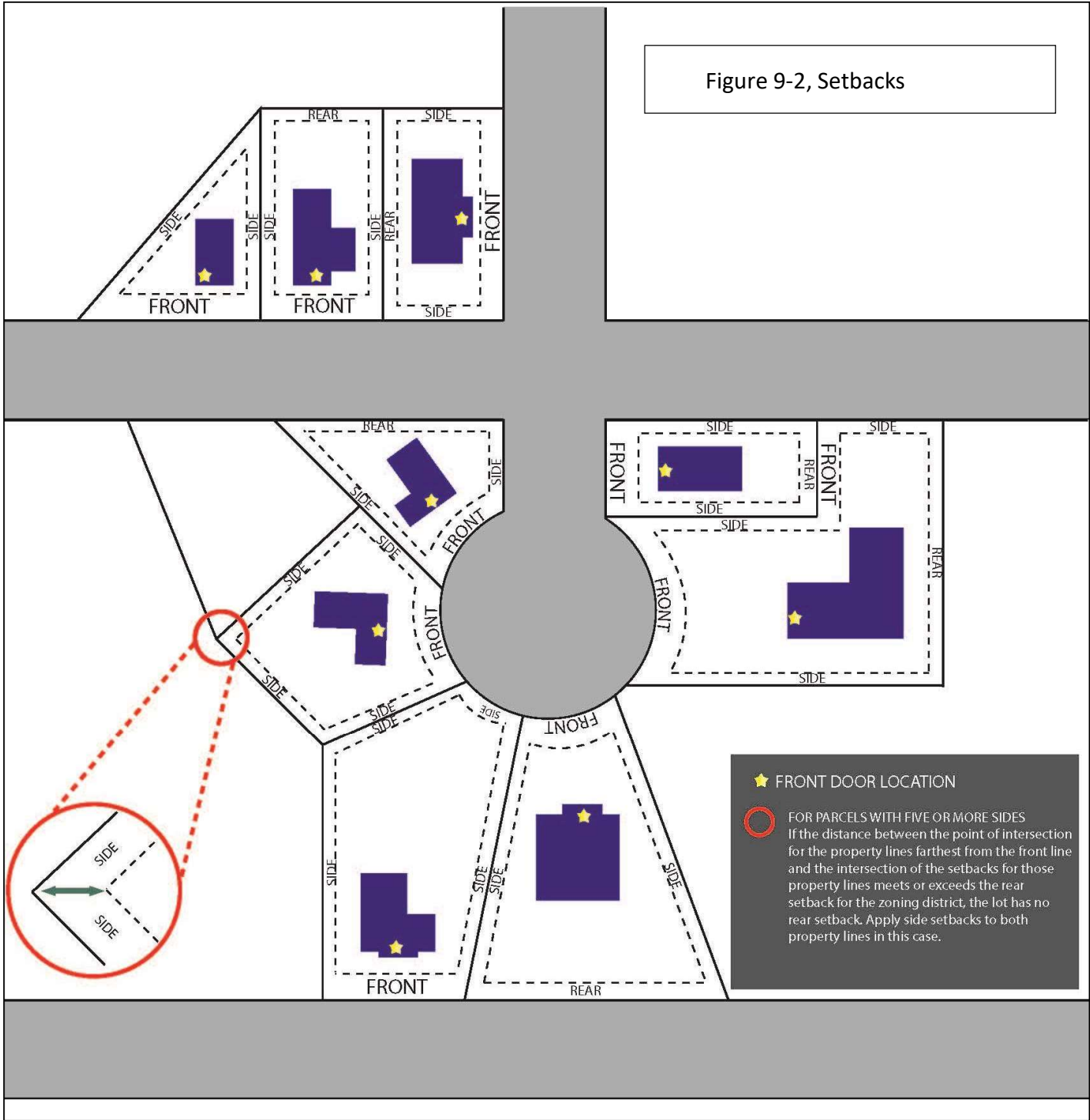
- 9.1.5.1.e** Lots encumbered with access easements not classified as private streets, utility or other easements shall measure setback requirements from the property line, not the easement.
- 9.1.5.1.f** When the proposed dwelling's design does not allow for the front or primary access door to face an adjacent street, the front setback will be measured from the nearest street right of way to the structure and the door location will not be considered.
- 9.1.5.1.g** Refer to the definitions of front setback, rear setback, and side setback and Figure 9.2 to resolve any questions about which property line is the front, rear, or side of a parcel.

9.1.5.2 Permissible Encroachment into Required Setbacks

- 9.1.5.2.a** One- and two-family driveways, walkways, fences, retaining or decorative walls, ornaments, furniture, and landscape plantings may be permitted in any setback.
- 9.1.5.2.b** Patios may encroach into required setbacks, provided that the minimum patio setback is ten feet from a rear or side property line and provided that the patio surface is not more than 6 inches above the adjacent grade. Covered patios or patios with shade structures must observe the setback established for the district as set forth in Section 6.3, *Dimensional Requirements*.
- 9.1.5.2.c** Accessory buildings and freestanding accessory dwelling units may encroach into a side yard or rear yard setback not adjacent to a street right-of-way to within 5 feet of the property line, with the following limits:
 - (a) For an accessory building with a highest point 12' or more above the ground elevation, an additional setback of 2' for each 1' of elevation above 12' is required until the standard setback is met.
 - (b) The setback being reduced is not part of a land use or stream buffer required elsewhere in this Ordinance, nor a recorded easement for utilities, drainage, or access.
- 9.1.5.2.d** Parking lots and parking spaces are not allowed within setbacks.
- 9.1.5.2.e** Residential mechanical equipment, including but not limited to generators and HVAC units or components, are not required to observe minimum setbacks. These installations for non-residential and multi-family uses are required to observe minimum setbacks, regardless of the zoning district.
- 9.1.5.2.f** For setback provisions that apply to nonconforming lots of record, see Section 7.5, *Nonconforming Lots of Record*.
- 9.1.5.2.g** Steps, risers and ramps without a roof, awning or similar covering extending from residential structures may encroach in required setbacks, provided that a minimum setback of no less than 10 feet remains along any property line shared with another residential property (not street right of way). Required landings between two runs of risers or ramps may also encroach provided the landing is also without a roof, awning or similar cover. In the case where an existing structure does not observe a 10-foot setback from a property line shared with

another residential property or street right of way at the time of application, the maximum possible setback shall be preserved while allowing necessary access to an existing structure.

9.1.5.2.h Projections and cantilevers from residential structures, including but not limited to eaves, overhangs, gutters, bow windows, chimneys, that do not exceed 24" of projection and do not have contact with the ground. Projections in excess of 24" and those that have contact with the ground must meet the applicable setbacks, unless otherwise addressed in this section.



9.1.6 HEIGHT MEASUREMENT

- 9.1.6.1** The height of the side of a building or structure shall be the vertical distance measured from the mean elevation of the finished grade along that side of the building or structure to the highest point of that building or structure.
- 9.1.6.2** Subject to the remaining provisions of this section, no part of a building or structure in any district may exceed the height limit as indicated in Section 6.3, *Dimensional Requirements*.

9.1.7 HEIGHT LIMIT EXCEPTIONS

- 9.1.7.1** The following features are exempt from the height limitations set forth in Section 6.3, *Dimensional Requirements*, so long as they do not exceed such height limitations by more than 10 feet:
- 9.1.7.1.a** Chimneys and elevator shafts.
 - 9.1.7.1.b** Antennas which are self-supported shafts of 6" in diameter or less, flag poles and similar devices.
 - 9.1.7.1.c** Solar collectors.
 - 9.1.7.1.d** Church spires and their ornamentation so long as they do not exceed such height by more than 10 feet if located within the Historic District overlay zone; and so long as they do not exceed such height by more than 20 feet when located outside the Historic District.
- 9.1.7.2** The permit issuing authority may authorize a structure to exceed the height limits set forth in Section 6.3, *Dimensional Requirements* so long as they do not exceed such height limitations by more than ten (10) feet when it concludes the following:
- 9.1.7.2.a** There are sound architectural, structural, historical, or other reasons why the proposed structure should be allowed to exceed the normal height limits.
 - 9.1.7.2.b** That portion of the proposed building or structure that will exceed the height limit will be so located and/or buffered so that it will not be visually obtrusive or offensive in any substantial way, OR the total height of any addition to an existing building including any roof elements does not exceed the maximum height including any roof elements of the existing building.
 - 9.1.7.2.c** The Historic District Commission has granted a Certificate of Appropriateness for the project if it is located within the Historic District.
 - 9.1.7.2.d** Any adverse impact on neighboring properties is insignificant or is substantially outweighed by the hardship suffered by the applicant if the height exception is denied, and
 - 9.1.7.2.e** Adequate fire protection can be provided.

9.2 DEFINITIONS

Accessory Use	A use customarily associated with and clearly subordinate to a principal use located on the same zoning lot and in the same zoning district as the principal use. Accessory uses may be listed in Table 5.1, <i>Use Table</i> , but are not limited to uses provided in the table.
Active Recreation	Any use or mix of uses including but not limited to the following: athletic fields, buildings or structures for recreational activities, concession, community garden, courses or courts, children's play area, dog play area, or a bike path.
Activities of Daily Living	Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating.
Adult Day Care	A for profit or not for profit establishment which provides supervision and activities for senior citizens who for reasons of age or abilities should not be alone during daytime hours.
Adult Establishments	A facility wherein the activities described in North Carolina General Statutes, Section 14-202.10 are intended to occur.
Adverse Impact	A negative effect caused by or resulting from development. These effects may include, but are not limited to the following: noise, vibration, air pollution, liquid waste, glare, traffic congestion, and storm water run-off.
Aggrieved Party	Person or entity whose interests or property rights are, or may be, negatively impacted by a land use decision or activity
Agricultural Uses	The cultivation of crops or livestock, including (but not limited to) orchards, vineyards, nurseries, or animal husbandry, along with any buildings or structures necessary to conduct such activities.
Angled Parking	Vehicle parking arrangement where the chassis of the vehicle is parked on a diagonal to the curb or flow of traffic.
Apartment	Type of attached dwelling unit
Appeal	Action taken by person claiming to be aggrieved by a final decision of the Planning Director or of a Town board acting under authority granted by this Ordinance.
Approved Accounting Tool	The accounting tool for nutrient loading approved by the EMC for the relevant geography and development type under review.
Arboretum	A place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational or passive recreational purposes, not including the harvest of plants or their produce.

Architectural Elevation	Building façade
Architectural Feature	Component or characteristic of a building façade including but not limited to windows, doors, trim, cornice, etc.
Architectural Style	A recognized period or type of building construction
Artisan Studio	A facility where physical artists or craftsmen practice, display, and sell their works to the general public
Automated Teller Machine (ATM)	An unstaffed machine for accessing financial accounts. These may be attached to a bank branch or independently located for walk up or drive up customers.
Bank & Financial Institution	An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities but shall not include bail bond brokers. Financial institutions may also provide Automated Teller Machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. Financial institutions may include drive-up windows.
Bar	Premises used primarily for sale or dispensing of alcoholic beverages by the drink for on-site consumption, and where food may be available for consumption on the premises as accessory to the principal use with the provision of live entertainment allowed as an accessory use (See also definitions for Performance Facility and Restaurant.)
Berm	A constructed landscape feature, usually an elongated mound of soil, which creates a vertical barrier above the adjacent grade
Bona Fide Farm	see farm, bona fide
Bed and Breakfast Facility	A building or group of attached or detached buildings containing, in combination, three (3) to twelve (12) lodging units for daily or weekly occupancy, with or without board, and primarily for occupancy by transients, as distinguished from rooming houses, in which occupancy is primarily by residents rather than transients.
BMP	Best Management Practice, commonly used in stormwater manageme <i>but now the preferred term is SCM which stands for stormwater cont measure.</i>
Botanical Garden	A garden having documented collections of living plants for the purposes of scientific research, conservation, display, or education.

Brewery	An establishment primarily engaged in the brewing of ale, beer, malt liquor, nonalcoholic beer, wine, and spirits that is licensed to do so in accordance with the regulations of the Alcoholic Beverage Control Commission, with a production of more than 15,000 barrels per year. Accessory uses can include a restaurant, a public tasting room, and retail sales of beverages produced onsite, or related products and merchandise.
Buffer	A screening device used to moderate the adverse impact(s) of one land use upon another. Buffers may include walls, hedges, landscaped areas, berms, additional setbacks, or combinations of the above.
Building	A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or tangible personal property.
Building Height	The height of the side of a building or structure shall be the vertical distance measured from the mean elevation of the finished grade along the side of the building or structure to the highest point of that building or structure.
Building Permit	Document issued by Orange County Building Inspections authorizing the commencement of construction work, which includes permits issued for any of the individual building trades and details the conditions under which work may proceed.
Building/Trade Contractor's Office	An establishment that serves as the base of operations for building contractors, plumbers, electricians, mechanical systems technicians, and the like. This use also includes other service type businesses dispatching to a work site including but not limited to exterminators, carpet cleaners, or mobile vehicle service with no on-site garage. This use may include office, on-site and off-site repair, and sale of related supplies and equipment. Outside storage of supplies, equipment, or vehicles that meet the definition of storage rather than parking is only permitted if the outdoor storage meets the requirements in Section 5.2 45.
Building, Accessory	A subordinate structure detached from the principal structure, the use of which is incidental to the permitted use of the principal building.
Bus Passenger Shelter	A small structure to house bus passengers during inclement weather.
Canopy Tree	Any deciduous tree with at least a 12" diameter measured at breast height or non-deciduous tree with at least a 24" diameter measured at breast height (4' from the ground).

Caregiver	An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person, and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring
Cemetery	Uses intended for the interment of the dead and dedicated for cemetery purposes and may include public or private cemeteries. This Use Type may include a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.
Certificate of Appropriateness	A permit reviewed and approved by the Historic District Commission indicating compliance of a development application with the standards of evaluation and design guidelines applicable within the Historic District Overlay district.
Changeable Message Sign	A sign, the face of which contains an area where the message can be changed regularly by adding, removing or adjusting individual letters or numbers, or the use of LED fixtures. This definition does not apply to signs displaying the prices for motor vehicle fuels or movie theatre marques.
Child Day Care	In accordance with state statutes, child day cares are an arrangement or program where, at any one time, either three (3) or more preschool-age children or nine (9) or more school-age children receive child care in a building other than a residence on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. Such uses may also involve the provision of educational services in preparation for elementary school. Institutions providing elementary education are designated as an elementary school, regardless of whether they also provide pre-school services.
Church, Place of Worship	A structure used in the practice or celebration of beliefs in religious entities or deities. Normal accessory uses include, but are not limited to, offices related to the operation of the organization, meeting rooms, missionary operations, residential facilities for clergy, child care, and related facilities so long as the principal use is the place of worship.
Circulation Space	That portion of a parking lot or vehicle accommodation space used for access to parking or loading spaces or other facilities on the lot. Essentially, driveways and other maneuvering spaces (other than parking spaces) comprise the circulation space.
Civil Penalty	A fee imposed on a property owner for the violation of this ordinance.

Combination Use	Use consisting of a combination of two (2) or more principal uses separately listed in the Table of Permitted Uses.
Comprehensive Plan	A Comprehensive Plan is a policy document, or set of documents, formally adopted by the Town Board, that provides guidance on the Town's vision for development of its zoning jurisdiction over a given period of time. The primary emphasis of a Comprehensive Plan is to provide long-term policy direction to property owners, residents, and decision makers on land use and community issues, such as where future development and redevelopment should occur, and at what scale and densities. Comprehensive Plans typically consist of maps, vision statements, goals, policies, and action items to address a number of issues related to growth and land use, sustainability, economic vitality, transportation, neighborhoods and housing, public infrastructure and services, parks and recreation, historic preservation, and community character and aesthetics.
Condominium Development	A project of two (2) or more units in one (1) or more buildings designed and constructed for unit-ownership as permitted by the North Carolina unit-ownership act.
Construction	The process of building, erecting or making improvements on or to land.
Contiguous Property	Parcel or lot which adjoins a subject property by either sharing a property line or would share a common property line but for the existence of an intervening right-of-way.
Contractual Interest	Interest in real estate via a lease, contract to purchase, or other legal document or instrument.
Contributing Building	A building determined to contribute to the character of the Historic Overlay District due to its age, architectural style, integrity, or history as noted in the architectural inventory.
Critical Root Zone	The subsurface area under the dripline of a tree or shrub.
Cultural Resource	A structure, landscape, vista or other characteristic of land or an improvement thereto, that provides information about the history or development of the community.
Dbh (Diameter at Breast Height)	Diameter of a tree measured four feet above the ground.
De Minimus	Something or some act which, standing alone, is so insignificant that it does not warrant consideration.

Debris	Construction debris, stumps, branches and limbs, and mine tailings. This definition does not include household trash, garbage, industrial waste and hazardous material.
Deciduous tree	Any tree which loses its leaves for a portion of the year.
Dedication	A conveyance by the owner of land, or an interest therein, for a specified purpose or purposes. Because a transfer of property is entailed, dedication must be made by written instrument and is completed by written acceptance. Dedication is typically made to a unit of government or to a property owners association.
Destroyed	Damage or alternation to the original or most current existing form of a sign, structure, site, or building caused by some force other than the action or inaction of the owner, someone employed by the owner, or otherwise with the owner's consent. To be considered "destroyed" the damage must be so severe that the cost to repair exceeds 50% of the value of the damaged structure.
Detention Facility	A facility operated by or on behalf of the government to provide group quarters and rehabilitation for individuals serving sentences within the criminal justice system.
Direct Illumination	Lighting observed when the light source has an unobstructed path to the receiving surface
Dripline (of a tree)	The ground area under the canopy of branches, often drawn as a circle within the tree trunk of the center and a radius equal to the distance from the center to the farthest branch extent.
Driveway	That portion of the vehicle accommodation space that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
Dry Cleaning or Laundry Services	A personal service business maintained for the drop off and pick up of clothes for off-site laundering or dry cleaning, without the operation of any laundry or dry cleaning equipment on the premises.
Duplex	type of attached dwelling unit containing two units of roughly equal size

Dwelling Unit	A room or group of rooms forming a single independent habitable unit with facilities used or intended to be used for living, sleeping, cooking, and eating by one family; for owner occupancy or rental, lease or other occupancy on a weekly or longer basis, and containing independent cooking, sanitary, and sleeping facilities. Units otherwise meeting this definition but occupied by transients on a rental or lease basis for periods of less than one week shall be construed to be lodging units.
Dwelling, Accessory	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached, subordinate structure on the same zoning lot. Efficiency apartments are one type of accessory dwelling. (See also definition for efficiency apartment.)
Dwelling, Attached	Two or more dwelling units that are joined together by a common wall. Attached dwelling units include duplexes, townhomes, apartments, condominiums, and other multi-family developments.
Dwelling, Mobile Home, Class A	<p>A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:</p> <ul style="list-style-type: none"> a) The pitch of the mobile home's roof has a minimum vertical rise of two feet for each twelve feet of vertical run. b) The exterior materials are of wood, hardboard, or aluminum comparable in composition, appearance, and durability to site-built houses in the vicinity. c) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the mobile home; and d) The tongue, axles, transporting lights, and removable towing apparatus are to be removed subsequent to final placement.
Dwelling, Mobile Home, Class B	A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.
Dwelling, Mobile Home, Class C	All mobile homes other than Class A or Class B mobile homes.
Dwelling, Single-Family (Detached)	A residential building that contains one (1) dwelling unit on a single lot and may also include one (1) efficiency apartment.

Easement	A grant of rights by a property owner to another individual, group, or governmental unit to make limited use of a portion of real property for a specified purpose.
Efficiency Apartment	An efficiency apartment is a dwelling use accessory and subordinate to a principal single-family dwelling, that is located within the principal dwelling unit.
Electronic Gaming Operation	Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, or skill-based games including sweepstakes, and where cash, merchandise or other items of value may be redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, sweepstakes, fish tables, internet cafes, internet sweepstakes, electronic gaming/machine operations, or cybercafés that otherwise meet the preceding definition. This does not include the N.C. Education Lottery.
Event Center	A building containing in some combination two or more of the following: a bed and breakfast facility; a restaurant; a bar; a night club; or a meeting facility. The facility may make some or all services available to the general public in addition to guests.
Excavation	Addition, removal, or rearrangement of earth on a lot which cannot reasonably be done with handheld tools.
Existing Development	For purposes of stormwater compliance, development not otherwise exempted by this ordinance that meets one of the following criteria: <ul style="list-style-type: none"> a) It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or b) It occurs after the effective date of this ordinance, but does not result in a net increase in built-upon area and does not decrease the infiltration of precipitation into the soil.
Extended Care Facility	A facility licensed by the appropriate state agency, as a facility for fifteen (15) or more unrelated individuals (excluding supervisory personnel) who are mentally or physically handicapped, aged, or disabled and are undergoing rehabilitation or extended care. This includes, but is not limited to, nursing homes, rest homes, hospices for the aged or terminally ill, adult congregate, and assisted living facilities. Adult congregate and assisted living are used with the definitions established by the North Carolina Division of Facilities Management.

Extraction of Earth Products	The process of removing natural deposits of minerals, ores, soils or other solid, liquid, or gaseous matter from their original location. It does not include processing of such materials, beyond incidental mechanical consolidation or sorting to facilitate transportation to the site of use or location for further process. This does not include the necessary removal of material in connection with the construction of a building.
Extraterritorial Jurisdiction	The geographical area, determined by ordinance and recorded in the Register of Deeds office, which is outside the city limits of Hillsborough but subject to the requirements of this Ordinance. By state statute, this area is generally 1 miles or less from the city limits at the time it is enacted and is sometimes referred to as the extraterritorial mile or ETJ.
Family	Two or more persons related by blood, marriage, state-approved foster home placement, court-approved adoption, or up to five unrelated persons, constituting a single housekeeping unit.
Family Care Home	A facility licensed by the appropriate state agency as a family care home for one (1) to six (6) unrelated individuals, together with support and supervisory personnel. See also definitions in North Carolina General Statutes§ 168-20.
Family Child Care Home	In accordance with state statutes, Family Child Care Home is an arrangement located in a private residence where, at any one time, more than two (2) but less than nine (9) children receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption.
Farm, Bona Fide	Land on which the raising of crops or livestock, including orchards, vineyards, nurseries, or animal husbandry, are conducted, along with any buildings or structures necessary to conduct such activities.
Farmer's Market	An open-air market that may be comprised of temporary or permanent structures for multiple vendors occupied at least one day per week on a regular schedule for the sale of produce, farm products, or handcrafted items on a lot owned by a unit of local government, a sponsoring bona fide farm, or the non-profit entity operating the market.

Fence	A constructed, freestanding, vertical barrier (not landscaping) or enclosure. A fence may be decorative and insubstantial or completely opaque. Construction materials include but are not limited to wood posts and wire, metal, wooden posts with pickets or boards, and brick or stone columns with metal or wood panels. Fences may also be constructed to support or protect the growth of plant material.
First or Second Degree Relative	A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew or niece and includes half, step and in-law relationships.
Flex Space	Building designed and marketed as suitable for offices but including areas suitable to accommodate bulk storage, showroom (including retail sales as an accessory, but not predominant use), manufacturing, assembly, or similar operations. Generally, flex space has storefront type windows in the office area of the space.
Food Preparation Business	The enterprise of creating foods or beverages for off-site retail sale or serving (catering). When combined with on-site retail sale and on-site consumption, this will be classified as a combination restaurant/food preparation business. When combined with on-site retail sale and off-site consumption, this will be classified a combination retail/food preparation business.
Freestanding Sign	A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign," is a freestanding sign. If the message is removed from the structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.
Funeral Home	An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.
Gallery	A facility open to the public for the display and sale of physical art (such as paintings, sculptures, pottery and jewelry).

Government Facilities & Office Buildings	An office or other facility occupied by a government agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, motor vehicle licensing and registration services. Government facilities that do not provide services directly to the public but serve as the base of operations for government functions including but not limited motor pools, fleet maintenance facilities, utility storage yards shall be treated and classified as the most similar private sector use.
Government Maintenance Yard	A facility owned and operated by a unit of government to park, store, repair, and stage service vehicles and repair equipment, including, but not limited to, transit vehicles, solid waste and street repair vehicles, and utility system and park vehicles.
Grading	See “excavation”
Greenhouse/Nursery	The growing, storage, and sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials for retail sale to members of the general public. Such uses may include greenhouses, outdoor storage of goods, materials and equipment irrigation systems, and caretaker’s dwellings.
Gross Floor Area	The total area of a building measured based on the exterior dimensions of the building at each floor level intended for occupancy or storage.
Group Care Facility	A facility licensed by the appropriate state agency, as a permanent or transitional residence for seven (7) to fifteen (15) unrelated individuals (excluding supervisory personnel), who as a result of age, illness, handicap or some specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort. This category includes group homes for all ages, nursing/rest homes, halfway houses, and foster homes.
Health Care Facility	An establishment engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists, and other health practitioners, out-patient care facilities, and miscellaneous types of medical services.
Health/Fitness Center	Establishment which offers classes &/or equipment for physical fitness.

Home Occupation	An accessory commercial use of a residential property by a resident thereof, which is clearly incidental and subordinate to the principal use of the property as a residence. The residence must be the base of operations for the business and the function of the business must take place at the residence to require a permit.
Homeless Shelter	A facility that provides temporary lodging for 1-12 indigent individuals and/or families with no regular home or residential address. Supportive services (including, but not limited to: a community kitchen or food pantry; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care) may also be provided in conjunction with lodging. Similar services provided within an existing church/place of worship shall be considered an accessory use to the church/place of worship's principal use, and shall not require a Special Use Permit when the space allocated to the shelter operation does not exceed 25% of the area of occupied structures on the same parcel.
Hospital	An institution providing 24 hour physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, and staff offices.
Hotel & Motel	A building or group of attached or detached buildings, in combination, containing twelve (12) or more lodging units, or ten (10) or more dwelling units, intended primarily for rental or lease to transients by the day or week.
Impact Vibration	Mechanical oscillations about an equilibrium point caused by the impact of one object upon another with force.
Impervious Surface	A ground covering that limits the absorption of stormwater into the ground water system. Examples include buildings, asphalt, concrete, gravel, and similar treatments
Industrial Use	Use permitted in the industrial districts which involves the creation of consumer products from raw or prepared materials, or is otherwise involved in converting raw materials to final products
Intermittent Stream	Any water feature shown as broken blue lines on the most current USGS Quadrangle maps for Orange County, or so designated by authorized staff upon a field investigation.

Junkyard	An establishment where junk, waste, discarded, salvaged, or similar materials from motor vehicles are brought, sold, exchanged, baled, packed, disassembled, stored, or handled.
Kennels, Boarding	A facility or establishment which offers to the public the service of boarding animals for a fee. Such facility or establishment may offer grooming services for domesticated animals in addition to providing shelter, food, and water.
Kiosk	A freestanding structure meant to display and convey information to passers-by. The information in such structure shall not be comprehensible by passing vehicular traffic. The structure shall provide little or no protection from the elements to pedestrians unless co-located with a transit shelter
Land Disturbing Activities	Activity that disturbs the pavement, building, or topsoil or vegetative cover of a site. Also, any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
Land Use Plan	A set of documents and maps that categorize existing patterns of land development and set guidelines for the desirable intensity, density, quantity, and location of future development based on the goals and policies set forth in the Comprehensive Plan.
Larger Common Plan of Development or Sale	Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.
Legal Nonconformity	A use or situation that does not satisfy the provisions of this Ordinance, but which use or situation legally existed prior to the adoption of this Ordinance.
Library	An establishment where books, periodicals, newspapers, sound recordings, and picture recordings are available for members to borrow and where other resources may be available for members to conduct on site research (books, periodicals, computers, historical collections, and the like).
Light Industry	The manufacture, service, repair or testing of products every aspect of which activity occurs within an enclosed building.

Lighting Contours	Graphic or pictorial representation of the light intensity emanating from light fixtures.
Loading Area	That portion of vehicle accommodation area used to park vehicles which are making pick-ups or deliveries of goods or materials to or from the building to which that area is allocated.
Lodging Unit	A room or rooms connected together, constituting separate lodging for one (1) family and which are physically separated from any other dwelling or lodging units. Where two (2) or more rooms are connected by a doorway or doorways, and are arranged, equipped and furnished in such a manner that they might reasonably be rented, leased, or occupied, either individually or in combination, each room shall be construed as a lodging unit.
Lot Area	The total horizontal area within the boundary lines of a lot exclusive of rights-of-way and easements for access to other property. Utility and similar easements are included within a lot area.
Lot Depth	The shortest perpendicular distance from the front lot line to the rear lot line.
Lot, Double Frontage	A continuous (through) lot which is accessible from both the streets upon which fronts on opposite sides.
Lot of Record	A lot created by deed or plat and recorded in the Orange County registry of Deeds prior to the existence of the establishment of a zoning ordinance and/or subdivision regulations in Hillsborough's zoning jurisdiction. (See also definition for Zoning Lot.)
Lot Width	Lot width is the distance between the side lot lines measured along the front building setback line. In cases where a structure is "condominiumized," or the interior floor area of a structure is owned by different owners, the zoning district lot width requirements shall apply only to the parent tract or development site, not the individual ownership units.
Lot, Non-Conforming	Legally created lot of record, existing at the time regulations were passed requiring greater minimum width or area than provided on such lot, or establishing other limitations which such lot does not meet. Such lots may be considered substandard lots of record.
Lot, Non-Legal for Zoning Purposes	A lot which is neither a zoning lot nor a non-conforming lot. No such lot shall be used or occupied, except as open space, until it is made to conform to the requirements of the Ordinance and other applicable regulations.

Lot, Zoning	A designated parcel, tract or area of land established by plat, or as otherwise permitted by law, to be used, developed or built upon as a unit. Zoning lots are designated on the Official Zoning Map for the Town of Hillsborough. (See also definition for Lot of Record.)
Manufacturing Facility	A building or structure in which manufacturing, processing, creating, renovating, painting, cleaning, and assembling of goods, merchandise or equipment occurs, and which does not require an air quality permit from the State of North Carolina or a SPECIAL Industrial Users Permit from the Town Utilities Director.
Master Development Plan	A plan for the development of land approved as part of a rezoning request to a Planned Development district, that defines basic development uses, intensities, and a transportation network for the sites.
Maximum Building Capacity	A value, determined by the State Building Code, of the number of occupants that can safely be inside a building at one time.
Mechanical Equipment	Equipment usually located outside a building, and attached to the roof or to an outside wall, intended to facilitate the provision of utilities or air handling to the structure. Examples include but are not limited to electrical panels, generators, hot boxes, backflow preventors, and HVAC equipment.
Meeting Facility	A building, part of a building, or series of building available for rent for public and private meetings and events. This type of facility may provide rooms of various sizes to accommodate one or more functions at the same or different time, restrooms or changing rooms for guest use, and/or a warming kitchen or similar food staging area. This use does not include on-site food preparation, lodging, or any personal care services.
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.
Merchant Organization	For the purposes of event signage in Section 6.18, an association of merchants or organization of merchants may include any formal group with bylaws and a membership roster that holds at least 1 meeting per year to conduct the business of the association or organization.

Micro-Brewery	An establishment primarily engaged in the brewing of ale, beer, malt liquor, nonalcoholic beer, wine, and spirits that is licensed to do so in accordance with the regulations of the Alcoholic Beverage Control Commission, with a production of less than 15,000 barrels per year. Accessory uses can include a restaurant, a public tasting room, and retail sales of beverages produced onsite, or related products and merchandise.
Minor Work	Building modification or landscaping that takes place within the Historic Overlay District, which due to its limited impact or temporary nature, may be approved by the Planning Director.
Mobile Classroom	A structure consisting of one, two or three principal components assembled in a factory and transportable on its own chassis specifically designed and constructed to be used as a classroom or office space as, opposed to a dwelling.
Mobile Home	See dwelling, mobile home.
Mobile Home Park	A lot in single ownership used or proposed to be used for the long-term placement of two (2) or more mobile homes for use as dwelling units.
Mobile Home Space	A parcel of land occupied or intended to be occupied by one (1) and only one (1) mobile home, the area of which is to be used exclusively by the occupants of the mobile home.
Modular Home	A dwelling built according to the North Carolina Residential Building Code having neither its own chassis nor wheels, consisting of one (1) or more modules constructed off the building site and designed for transportation to and erection on a permanent foundation at the building site.
Motor Vehicle Fuel Station	An establishment offering retail sale of vehicle fuel or means of propulsion (including gas, diesel, natural gas).
Motor Vehicle Maintenance & Service	General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major paint service. Accessory uses can include carwashes, auto detailing, window tinting and related appearance services.
Motor Vehicle Repair	An establishment where automobile maintenance or service is rendered, with the addition of body work, straightening of body parts, painting, welding, temporary storage of motor vehicles not in operating condition, major mechanical work, including engine overhaul and other major work requiring overnight storage.

Motor Vehicle Sales/Rental	An establishment including any building or land area for the display of motor vehicles, trucks, vans, tractor trailers, or recreation vehicles for the purpose of sale or rental and including any warranty repair work and other repair service conducted as an accessory use. (See also definition for Personal Vehicle Sales.)
Multi-tenant Development	A non-residential development in which there exists two or more individual tenants or leaseholds, and/or separate activities and in which there are appurtenant shared facilities (such as parking areas or pedestrian mall areas).
Museum	A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food are served to the public.
Nonconforming Project	Any structure, development, or undertaking that is underway, but incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
Nonconformity	A lot, use of land without structures or with minor structures, use of major structures and premises, structures, and/or, characteristics of uses which are prohibited, regulated, or restricted by the enactment of this Ordinance or a subsequent amendment thereto. Nonconformities which lawfully existed prior to the effective date of this Ordinance may continue, subject to the provisions of Section 7.
Non-deciduous tree	Any tree which does not lose its leaves or needles for a portion of the year.
Non-profit Organization	An entity or group organized for purposes other than generating a profit, such as charitable, religious, fraternal, scientific and/or social organizations.
Non-residential Uses	Uses of land for purposes other than permanent, or long term, residential use by owners or occupants pursuant to lease or rental agreements. This category includes retail, office, commercial, industrial, institutional and other similar uses. This category does not include multi-family or attached dwellings.
Nursing Home	See Group Care Facility

Office operations	Location of business operations generally without daily face to face contact with customers or clients, including back office functions, telephone or internet-based customer service and sales, or other business functions for a larger entity. This use includes corporate headquarters, enterprises engaged in intellectual research or consulting, and call centers or data centers not co-located with distribution operations.
Offices and professional services	Base of operations for government and client service businesses including but not limited to: real estate, finance, insurance, engineering, travel agents, web design, and others not captured by the term personal service business or the term health care facility as defined in this ordinance.
Off-street Loading	Area, usually in or adjacent to a parking lot, reserved to provide short term parking for delivery vehicles while loading or unloading goods, materials, equipment, etc. for a nearby commercial establishment.
One-year, 24-hour Storm	The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.
Opacity	A measurement indicating the degree of obscuration of light or visibility.
Open Space	That portion of a lot, parcel or tract of land that is set aside for the protection of sensitive natural features, farmland, scenic views and other unique features. Open space may be accessible to the residents of the development and/or the Town.
Order Fulfillment Center	Enterprise in which the principal activity involves receiving, processing, packaging, and shipping orders for retail goods to individuals or businesses.
Outlet Sales	Ancillary sales of products on the premises where the products are manufactured or packaged for distribution. Outlet sales areas may not exceed 10% of the building space on the parcel.
Outparcel	A parcel of land adjacent to, and developed in association with a shopping center or multi-tenant property development, which is designated on an approved site plan as a location for a freestanding structure .
Outfall	A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

Owner	For stormwater purposes, this term shall mean the legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.
Park, Athletic	A site containing public or non-profit athletic facilities for use by the general public. Examples include ball fields, indoor or outdoor courts, pools, skating rinks, etc. Uses in this category serve the community or regional recreation needs. Substantial indoor facilities will be considered Recreation Facilities.
Park, Community	A site, typically 5 acres or more in area, offering a variety of recreation opportunities for use by the general public. May contain elements of all other park types listed. Generally, serves the entire community or region.
Park, Cultural	A site containing public or non-profit recreation facilities of a cultural nature for use by the general public. These include but are not limited to historic sites/structures/areas, concert sites, museum site, and other facilities providing cultural, educational, or interpretive services of a historic, natural, or aesthetic resource.
Park, Natural	A site offering enjoyment of the natural environment for use by the general public. Expected uses include trails, picnic areas, signage, overlooks, etc. Comfort facilities may be installed. Sites which also provide structured interpretive events regularly shall be considered cultural.
Park, Neighborhood	An area created for the recreational enjoyment of the immediate neighborhood that may be owned & maintained by a governmental agency, property owners' association, or other non-profit organization. Features typically include: play equipment, picnic area, benches, open areas for non-regulation sports. These parks should be designed with significant neighborhood input.

Park and Ride Facility	A parking and vehicle circulation area owned and/or operated by a local government or by a public transit operator for the purpose of providing parking spaces for transit riders in conjunction with transit stops. This use is generally not collocated with another use. Park and ride arrangements collocated with non-residential and mixed-use centers are accessory uses to the primary use and are not governed by this definition.
Parking (principal use)	An off-street parking area (i.e., parking lot or structure) provided on a different parcel than the use(s) it is intended to serve.
Parking Space	A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.
Passive Recreation Area	Undeveloped land or minimally improved lands which includes the following: landscaped area, natural area, ornamental garden, non-landscaped greenspace, stairway, decorative fountain, picnic area, water body, or trail without recreational staffing, devoted to recreational activities.
Patio	An outdoor paved surface without a roof, the elevation of which is less than a 6" above from the surrounding ground level.
Pedestrian Amenities	Items located within the public right of way or on public or private property for the benefit of pedestrians or bicyclists including but not limited to benches, drinking fountains, refuse and recycling containers, bicycle racks or lockers, wayfinding signage
Pedestrian Circulation	The path or paths pedestrians use to move around a site. This includes both improved and unimproved routes.
Pedestrian Façade	That plane of the building elevation or façade that is oriented to pedestrian passers-by and/or has or is expected to have a pedestrian entrance
Perennial Stream	Any water feature shown as solid blue lines on the current USGS Quadrangle maps for Orange County or so designated by authorized staff upon a field investigation.
Performance Bond	Financial guarantee provided by an applicant to the town to ensure the completion of a required element of a plan or permit.
Performance Facility	A structure designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or terpsichorean performances, speeches or ceremonies, motion picture presentations, and other entertainment events. The provision of on-site food and beverages, including alcohol is allowed as an accessory use.

Permanent Road	Roads intended to be used in excess of one year, and, therefore, designed and constructed to standards sufficient for such long-term use.
Permit-issuing Authority	Term used to generically refer to the various elected, volunteer, and staff entities within the town government possessing authority under this Ordinance to review and approve development proposals
Perpendicular Parking	A pattern of parking where the individual parking spaces are oriented perpendicular to the curb or the flow of traffic.
Person	Includes, without limitation, individuals, firms, partnerships, associations, institutions, corporations, municipalities and other political subdivisions, and governmental agencies.
Personal Service Business	A business establishment which may offer a range of services for its clients' body or clothing, including but not limited to, beauty parlor, barber shop, salons or spas, tailors, dry cleaning drop off/pick up, laundry self-serve or drop off/pick up, therapeutic massage, and /or mental health counseling.
Petroleum Products Storage	Establishments that store and distribute motor vehicle fuel, fuel oil, propane, kerosene, liquefied natural gas, and liquefied propane gas to retail (no more than ten thousand (10,000) gallons or bulk (more than ten thousand (10,000) gallons) sale customers.
Phased Development Plan	Plan for development of property to be completed in distinct sections or phases, the distinction between phases usually involving different uses of land.
Plat	A map drawn on translucent material for recording in the Register of Deeds.
Planned Development	One or more lots, tracts or parcels of land to be developed as a single entity. Plans for such developments may propose, among other things, density or intensity transfers, density or intensity increases, mixing of land uses or any combination of the above. Plans for such developments may and often will deviate from the lot size, bulk, type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space or other standards otherwise applicable to the area in which it is to be located.
Pod (like on Master Plans)	A component of a master plan that shares a single land use designation. It may or may not be intended for subdivision as a single parcel.

Post Office	A facility operated by the United States Postal Service, to sell U.S. postage stamps and U.S. postal products and accept mail and packages for delivery.
Processing Facility	A building or structure in which manufacturing, processing, creating, renovating, painting, cleaning, and assembling of goods, merchandise or equipment occurs. Uses in this category may require an air quality permit from the State of North Carolina and/or a Special Industrial Users Permit from the Town Utilities Director.
Public Event	A discernable activity offered for general public enjoyment including but not limited to performances, competitions, displays of collectables or art not generally available for public viewing, speeches, fund raisers selling items not generally available to the public at that location and the like. The event must be open to the public, with or without an entrance fee, and must take place in Town or in the extraterritorial zoning jurisdiction. Examples of public events include: festivals, fund raisers or tournaments. Public events must be sponsored by non-profits, units of state or local government, or formal associations of merchants. Registration periods for sports leagues or camps (but not individual classes) offered by not-for profit organizations and taking place within the jurisdiction of this ordinance also qualify as “public events.”
Public HEARING	A meeting of an advisory or elected board to review a proposal for action under this Ordinance or as a component of the comprehensive plan, at which the board receives comments from the applicant, staff, and general public about the proposal.
Public Safety Services	A service operated by government or non-governmental agency to provide protection for citizens or residents, such as fire, police, and rescue squad.
Public Utilities	Facilities and improvements for the provision of water, sewage, electricity, natural gas, cable television, or telephone service (excluding telecommunication towers) to or through an area. This category of uses includes but is not limited to, water treatment plants, wastewater treatment plants, elevated water tanks, electric substations, and other significant installations. This use does not include minor above ground items like transformers, telephone switches or exchanges, or pumping stations.
Recreation Service Area	Sometimes referred to as a “park district,” a “recreation service area” is a defined geographic area within the Town’s jurisdiction which has been designated as a unit for purposes of determining allocation of recreation or park facilities and/or resources.

Recreation Space	That area within a development which is designed, shaped, and constructed to provide a combination of active and passive recreational opportunities to the public and/or the owners and residents of the development, title to which is held by the developer, property owners' association, unit of government, or non-profit entity.
Recreational Facilities	An indoor establishment (entirely within an enclosed structure) use providing for sport and recreation activities. Examples of recreational facilities uses include, but are not limited to bowling alleys, dancehalls, skating rinks, indoor commercial swimming pools, and racquet and tennis club facilities (indoor).
Redevelopment	For stormwater purposes, any development on previously-developed land. Redevelopment of structures or improvements that (i) existed prior to December 2006 and (ii) would not result in an increase in impervious surface area and (iii) provides stormwater control at least equal to the previous development is not required to meet the nutrient loading targets of this ordinance.
Research Facility	A facility established to aid in the studious inquiry or examination of pure science or applied science in any field, including but not limited to botany, biology, chemistry, physics, computers, and electronics. Facilities under this definition may contain clean rooms and wet labs for processing and research but not those built to biocontamination prevention standards. Studies of the humanities are not included in this use but are included in "office operations."
Research Facility, Intense	A facility established to aid in the studious inquiry or examination of pure science or applied science in any field. Any facility containing cleanroom or wetlab facilities for the containment of biocontamination or involving experiments or testing on animal subjects outside the field of veterinary medicine will qualify under this definition. A facility rate by the CDC (Center for Disease Control) as BSL (Biosafety Level)-2 or above shall be considered an intense research facility
Residential	Use of land for permanent or long-term dwelling purposes, either by owners or, lessees or renters for periods longer than one month or when the occupant has no other registered address.

Restaurant	Business specializing in preparing and/or serving food on-site. A restaurant may also serve alcoholic beverages for on- or off-site consumption provided it has the proper license from the state for such sales and is classified as an eating establishment by virtue of its food/alcohol sales ratio. The provision of live entertainment allowed as an accessory use.
Restaurant, Convenience	A food service establishment with a drive-thru window or seating for fewer than 10 customers. Most customers order at a counter, from their vehicle, or through electronic means and food is generally provided in packages to allow customers to leave the premises.
Restrictive Covenant	Legal instrument, suitable for filing with the Register of Deeds which establishes rights, duties, restrictions or limitations on the use of real property, described in the instrument.
Retail Sale & Rentals	Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase or rental and removal from the premises by the purchaser/renter. Examples include stores selling, leasing, or renting consumer, home, and business goods such as, but not limited to, art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries and food sales, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary, and videos.
Right-of-Way	As used in this Ordinance, this term describes an area of land set aside in a deed, offer of dedication or plat, for use as a strip of land on or within which roads, streets, or other public facilities or utilities may be constructed, improved and maintained. Such rights-of-way are usually “public,” title being conveyed to the Town or other public body or entity.
Riparian Buffer	Area set aside along rivers, streams or other bodies of water, within which the use and/or improvement of land is restricted or prohibited.
School: Art and Music	A public or private school or business offering art and music classes to students of a variety of ages. Such uses include classrooms, auditoriums, libraries, and other facilities that further the educational mission of the institution.

School: Dance/Martial Arts	A public or private school or business offering dance, martial arts, cheerleading, gymnastics, and similar classes to students of a variety of ages. Such uses include classrooms and other facilities that further the educational mission of the institution.
School: Elementary, Middle & Secondary	A public or private school offering a State appointed or authorized curriculum of general, technical, or alternative instruction at the elementary, middle, and/or high school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.
School: Higher Education	A public or private, institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions.
School: Vocational	A public or private school offering general, technical, and vocational instruction that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, laboratories, libraries, cafeterias, and other facilities that further the educational mission of the institution.
Screen	A built or natural device (hedge, fence, wall, berm, etc.) which defines an area and protects one use from the impacts of an adjacent use or activity.
Setback	The minimum distance between a property line or street right of way and structure including any projection thereof but excluding eaves and gutters, not to exceed twenty four (24) inches (see 9.1.5 for further information). Pedestrian or vehicular access ways may be constructed within the required setback line (see Figure 9-2).
Setback, front	The minimum distance between a property line or street right of way and an existing or proposed structure for the entire lot width parallel to the façade of the structure that contains or will contain the front or primary access door. The front door and primary access door do not have to be the same.

Setback, rear	The minimum distance between a property line or street right of way and a structure. The rear is generally the opposite side of the lot from the front. Irregularly shaped lots may not have a rear lot line. If the side setbacks intersect and the intersecting side setbacks exceed the rear setback when measured from the point of intersection, the lot will not have a rear setback.
Setback, side	The minimum distance between a property line or street right of way and a structure. The side of a parcel is generally the two or more sides that are not the front or rear yard.
Setback Line	The line on the front, rear and sides of the lot, that delineates the boundary between the approved building area on a lot and the area within which a structure may not be constructed, erected, or placed. The setback line is set according to the zoning district regulations.
Sharp Cut-off Type	A light fixture where no portion of the fixture bulb (light source) may extend below the fixture housing.
Short-term Rental	A primary dwelling, accessory dwelling, or any portion thereof offering overnight accommodations to guests for stays of less than 30 consecutive days in exchange for compensation.
Side Yard	The shortest distance between the structure on the lot and the nearest property line, other than the front lot line or rear lot line, measured parallel to the front setback line required for the appropriate zoning district.
Sight Distance	As used in this Ordinance, the minimum distance, usually measured in a straight line, between two fixed points, with no obstructions.
Sight Preservation Triangle	The triangle area formed by a diagonal line connecting two (2) points located on intersecting right-of-way lines (or a right-of-way line and the edge of a driveway), each point being a certain distance from the intersection, and from the two (2) intersecting right-of-way lines (or a right-of-way line and a driveway). On some occasions, the Town or state highway department may require additional sight zones as deemed necessary to provide adequate safety.
Sign	Any words, lettering, parts of letters, pictures, numerals, phrases, sentences, emblems, devices, trade names or marks by which anything is made known in a visible form used to attract attention from any public roadway.

Sign Band	Architectural feature of a building façade that indicates a preferred location for signage. Generally a horizontal depression centered above the primary door entrance of a commercial structure.
Sign, Ground Mounted	A sign which extends from the ground or which has support which places the bottom of the sign less than two (2) feet from the ground.
Sign, Hanging	An advertising sign attached to the façade of a business that projects perpendicularly from the façade. Hanging signs are only permitting in the Historic District, generally have text on both sides, and are treated as wall mounted signs for sign area calculations
Sign, Illuminated Tubing	A sign in which illuminated tubing constitutes or forms all or part of the message of the sign. Also includes signs in which the message area of the sign is outlined, underlined, or otherwise highlighted by illuminated tubing.
Sign, Off-premise	Any sign which directs attention to a business, company, service, accommodation, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.
Sign, Real Estate	A sign informing the public that all or portions of a given premises are for sale or rent.
Sign, Sandwich Board	A self-supporting sign resting on or supported by a means of poles, stands, or any other type of base that sits on the ground.
Sign, Temporary	A sign that (1) is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (2) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.
Site-specific Development Plan	A plan of land development which has been submitted to the town with an application for a special use permit, describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of land.
Sketch Plan	A preliminary and imprecise drawing of a proposed subdivision submitted for staff review
Solid Waste Residual	Solids from a wastewater treatment plant
Stacking Spaces	Areas designed and located to accommodate motor vehicles waiting to make a turning movement or to be served at a drive-in window.

Storage & Warehousing: Indoor	A use engaged in storage of goods, products, or equipment excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.
Storage & Warehousing: Outdoor	The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the principal use of the land where located, or an accessory use to a principal use.
Storage & Warehousing: Self	A use that provides individual storage units, buildings, or spaces with individual exterior access for rent to businesses or individuals for storage of items excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive. This use may include parking spaces or outside storage areas for long-term storage of vehicles or boats and may include a dwelling for a caretaker or security guard.
Storage Tanks Elevated	Structures designs and built to store water in order to increase the pressure of water in the distribution system and to supply additional capacity for treated water; this does not include tanks used to store petroleum products or chemicals.
Stormwater Control Measure	A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Stormwater control measures includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Engineered stormwater control" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance. It is a broad term that may include practices that do not require design by a professionally licensed engineer.
Stormwater Design Manual	The stormwater design manual approved for use in this part of the Falls Watershed by the Department of Environmental Quality for the proper implementation of the requirements of the Falls Watershed stormwater program. All references herein to the Stormwater Design Manual are to the latest published edition or revision.

Stormwater Runoff	Volume of water leaving a tract or parcel of land after a rain event, which is not retained on-site.
Stormwater System	All engineered stormwater controls owned or controlled by a person that drain to the same outfall, along with the conveyances between those controls. A system may be made up of one or more stormwater controls.
Street	Public or private access ways that accommodate movements of vehicular traffic.
Street, Alley	A minor way which is not intended for general circulation but is used primarily for vehicular access to the rear or side of properties otherwise abutting a street at the front.
Street, Arterial	A street used or designed to be used for through traffic, usually on a continuous route. Arterial streets carry high volumes of traffic, in excess of twelve hundred (1200) trips per day. For purposes of these regulations, such streets include those so designated in the Comprehensive Plan or any element thereof.
Street, Collector	A street used or designed to carry traffic between minor, local streets and arterial streets, but which may also provide direct access to abutting properties. It serves or is designed to serve directly or indirectly more than one hundred (100) units and is designed to be used or is used to carry more than eight hundred (800) trips per day.
Street, Cul-de-sac	A street that generally terminates in a circular or bulbous right-of-way. It is used or designed to be used to provide access to abutting properties.
Street, Local	A street used or designed to provide access to abutting properties. It serves or is designed to serve at least ten (10) but not more than twenty-five (25) dwelling units and is expected or does handle between seventy-five (75) and two hundred (200) trips per day.
Street, Private	A street that is a privately maintained vehicular way built to the private street standards of the Town of Hillsborough.
Street, Public	A street which has been accepted for permanent maintenance by the State of North Carolina or the Town of Hillsborough.
Structure	Anything constructed, erected, or placed on the land, above or below grade. It includes, but is not limited to: buildings, signs, load bearing walls docks, columns, and pools. Walkways, fences, patios, or one- and two-family driveways are not considered structures.

Structure, Principal	A structure or, where the context so indicates, a group of structures in which is conducted the main or principal use of the lot on which building is situated
Subdivider	Any person or persons, firm or corporation subdividing land within the jurisdiction of this Ordinance.
Subdivision	Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets.
Subdivision, Conservation	A subdivision containing 20 or more lots in which the individual building lot size is reduced and common open space area equal to or greater than the reduction of individual lot sizes is provided. The provided open space must protect irreplaceable natural features or include difficult physical features that make a conventional development pattern undesirable. The density of a conservation subdivision will be established through the district density applied to the gross development parcel size.
Subdivision, Major or Special	A division of a tract of land into five (5) or more lots with access to be provided from a public street.
Subdivision, Minor	A division of a tract of land into no more than four (4) lots with access to be provided from a public street.
Substantial Progress	For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.
Telephone Exchange and Switching Station	A facility designed and built to handle telecommunications equipment. This installation may contain any necessary storage and maintenance facilities.

Temporary Family Health Care Structure	A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b).
Town	The word "Town" or "Town of Hillsborough" or "Hillsborough" shall refer to all lands in the corporate limits and within the extraterritorial planning boundaries of the Town of Hillsborough as recorded in the Orange County Registry of deeds and as shown on the Official Zoning Map.
Townhouse	A one (1) family dwelling unit in a row of at least three (3) such units in which each unit has its own front and rear access to the outside; no unit is located over another unit; and each unit is separated from any other unit by one (1) or more common fire resistant walls.
Transmission Lines	For lines carrying electrical energy, transmission lines are those that carry forty-five thousand (45,000) volts or more. For lines which carry liquids or gases, transmission lines are those operating, or designed to operate, at pressures of one hundred (100) pounds per square inch or greater.
Tree Protection Zone	Area on a development plan designated for no development and no land disturbing activity
Understory Tree	A subset of deciduous trees that are smaller in mature height than canopy trees and prefer a growth habitat under the protection of canopy or shade trees
Undisturbed Area	Area where the ground cover plant material is intact and undamaged
Variance	A relaxation of the literal terms of this Ordinance 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, and where a literal enforcement of the Ordinance would result in unnecessary and undue hardship to the property owner. Establishment or expansion of a use otherwise prohibited shall not be permitted by a variance.
Vehicle Accommodation Area	That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of the circulation area, parking spaces and loading and unloading spaces.

Veterinarian Office/Animal Hospital	An establishment used for the care, grooming, diagnosis, and treatment of animals.
Wall	A vertical portion of a structure meant to support a roof or horizontal member OR a vertical structure constructed to define a boundary, create an enclosure, or create a barrier. Different from a fence is a wall acting as a fence (second portion of the definition) which uses construction methods more generally associated with construction of an enclosing structure and are most typically completely opaque although pierced construction is not uncommon. Material examples include, but are not limited to: brick, block, and rock. For requirements relating to walls constructed to act like fences, refer to the portion of Section 5 relating to fences and walls. Retaining walls are not walls constructed to act like a fence.
Walkways	Public pedestrian way within the road right-of-way or other public access easement of an approved surface. Walkways are available for public use, but may be owned and maintained by homeowners associations or similar entities.
Water & Sanitary Sewer Pumping Station	Mechanical installation for boosting water pressure or applying pressure to sewage collection lines to address topographic challenges in a water supply or wastewater collection system
Water Feature	A prominent aspect or characteristic of a geographic area that exhibits verifiable evidence of a presence of water in the soil. Examples of water features include, but are not limited to, perennial and intermittent streams, lakes, ponds, reservoirs, springs, artesian wells, irrigation wells, marshes or swamps, wetlands, and natural drainage ditches (non-ephemeral).
Water Supply Watershed	An area of land that drains to existing reservoirs which are public water supplies for the town or county or to potential reservoir sites which have been designated for protection.
Wholesale Sales	Establishment or place of business primarily engaged in selling merchandise to retailers; to industrial commercial, institutional, or professional business users; or to other wholesalers.
Written Narrative	A written description of a proposed action

Zoning Compliance Permit

A document signed by the Planning Director, as required in the *Unified Development Ordinance*, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which acknowledges that such use, structure, or building complies with the provisions of the *Unified Development Ordinance*. The Zoning Compliance Permit is valid for a period of twelve (12) months from the date of issuance of from the date of the adoption of this Ordinance.

Zoning Lot

See Lot, Zoning.