DESIGN BURLINGTON

UNIFIED DEVELOPMENT ORDINANCE

Adopted: 7.16.19
Effective Date: 11.1.19
Last Amended ~~12.3.19~~3.17.20

TABLE OF AMENDMENTS

UDO AMENDMENTS			
Ordinance Number	**Ordinance Date**	**Name**	**Comments**
UDOTA-01-20	12.3.19		First round of amendments
UDOTA-02-20	3.3.20		Second round of amendments

J. CONDITIONS OF APPROVAL

1. Unless expressly authorized in the specific procedures in Section 2.4, Specific Procedures, conditions of approval for conditional rezonings and for applications reviewed through the quasi-judicial process shall be limited to those deemed necessary to ensure compliance with the review standards for the particular type of application, or to prevent or minimize adverse effects from the proposed development on surrounding lands.
2. All conditions of approval shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding development.
3. All conditions of approval shall be expressly set forth in the notice of decision or development permit approval.
4. Conditions of approval associated with a conditional rezoning may be proposed by the applicant, City staff, the Planning and Zoning Commission, or the City Council, but only those conditions mutually approved by the City Council and the applicant may be included as part of the application approval.

K. WRITTEN NOTICE OF DECISION

1. Content

The notification of decision on an application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

a. The land or matter subject to the application;
b. A reference to any approved plans, as appropriate;
c. The approved use(s), if any; and
d. Any conditions of approval or other applicable requirements.

2. Timing

Except where otherwise stated in this Ordinance, the review authority shall provide the applicant written notification of a decision or action within 10 business days after a final decision on a development application.

3. Copy of Decision

a. In addition to providing the notification of a decision on an application to an applicant, the review authority shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
b. The review authority shall also make a copy of the notice of decision available to the public in the offices of the Planning and Community Development Department during normal business hours.

~~K.~~L. EFFECT OF DEVELOPMENT APPROVAL

1. Approval Limited

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.

2. Permit Prerequisite

In the event a permit or development approval is a prerequisite to another permit or development approval (e.g., administrative adjustment or variance approval prior to a site plan approval), development may not take place until all prerequisite approvals are obtained. Approval of one development application does not guarantee approval of any subsequent development application.

~~L.~~M. CONTINUANCE, POSTPONEMENT, OR WITHDRAWAL

An applicant may request that a review authority's consideration of a development application be continued, postponed, or withdrawn by submitting a written request to the appropriate review authority.

1. Procedure for Applications Subject to a Public Hearing

a. In cases where an applicant seeks a continuance or postponement of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the designated review authority processing the application shall consider and decide the request.

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

"A" = Allowed if included in Master Plan or Terms and Conditions Statement
"C" = Permitted, subject to Section 2.4.P, Rezoning, applicable Use-Specific Standards, and identified in conditions of approval
"P" = Permitted, subject to applicable Use-Specific Standards
"S" = Permitted subject to Section 2.4.S, Special Use Permit, and applicable Use-Specific Standards
" " (blank cell) = Prohibited

Use Type	PC	Residential					Commercial				Ind.			Conditional					Use-Specific Standards [2]
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
Animal Shelter																C	C		4.4.C.4
Automobile Repair and Servicing (without painting/bodywork)									P		P	P	P					A	4.4.C.5
Automobile Sales or Rentals									P		P							A	4.4.C.6
Automotive Painting/Body Shop									P		P		P					A	4.4.C.7
Automotive Parts and Accessory Sales								P	P	P	P							A	
Automotive ~~Wrecker Service~~Towing and Storage Lot									P		P	P	P					A	4.4.C.8
Bar, Cocktail Lounge, or Private Club						P			P	P	P							A	4.4.C.9
Bed and Breakfast			P	P	P	P	P	P	P	P								A	4.4.C.10
Boat and Marine Rental, Sales, and Service									P		P	P	P					A	
Bottle Shop (with on premise consumption)						P		S	P	P	P							A	4.4.C.11
Bulky Items Sales									P		P							A	4.4.C.12
Business Incubator						P	P	P	P	P	P	P	P					A	4.4.C.13
Campground									P									A	4.4.C.14
Car Wash or Automobile Detailing									P		P							A	4.4.C.15
Catering Establishment						S	P		P	P	P	P						A	
Check Cashing/Payday Lending									P		P							A	
Coffee Shop						P	P	P	P	P								A	4.4.C.16
Computer-related Service						P	P	P	P	P								A	
Convenience Store (no gasoline sales)						P		P	P	P	P	P						A	
Convenience Store (with gasoline sales)						P		P	P		P							A	4.4.C.17
Co-Working Space						P	P	P	P	P	P	P						A	4.4.C.18
Electronic Gaming Operation																C			4.4.C.19~~4.4.C.19.1.A.1~~
Equipment and Tool Rental									P		P								
Event Venue									P	P	P	P						A	4.4.C.20~~4.4.C.19~~
Fairgrounds																C	C	A	
Financial Service						P	P	P	P	P								A	4.4.C.21
Flea Market									P		P							A	4.4.C.22
Funeral-related Service							P		P		P							A	4.4.C.23
Golf Course			P	P	P	P		P	P									A	4.4.C.24
Golf Driving Range									P									A	4.4.C.25
Gymnasium/Fitness Center						P		P	P	P	P							A	4.4.C.26
Hair, Nails, and Skin-related Service						P	P	P	P	P								A	
Heavy Equipment Sales, Rental,									P		P	P	P					A	4.4.C.27

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Use Type	PC	Residential					Commercial				Ind.			Conditional					Use-Specific Standards [2]
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
and Repair																			
Hotel or Motel						P			P	P	P							A	
Indoor Commercial Recreation						P		P	P	P	P							A	
Kennel, Indoor/Outdoor									P	P	P	P	P				C		4.4.C.28
Large Format Retail									P		P							A	4.4.C.29
Laundry and Cleaning Service						P		P	P	P	P	P	P					A	4.4.C.30
Microbrewery or Microdistillery						P			P	P	P	P	P					A	4.4.C.31
Nightclub or Dance Hall									P	P								A	4.4.C.32
Office, Medical						P	P	P	P	P	P							A	
Office, Professional						P	P	P	P	P	P							A	
Office, Sales and Service						P	P	P	P	P	P							A	
Outdoor Commercial Recreation									P		P							A	4.4.C.33
Outdoor Storage									P		P	P	P			C	C	A	4.4.C.34
Packaging and Printing Service						P			P	P								A	
Park and Ride Facility					S	P	P	P	P	P	P	P						A	
Parking Lot					S	P	P	P	P	P	P	P	P					A	4.4.C.35
Parking Structure					P	P	P	P	P	P	P	P	P					A	4.4.C.36
Pharmacy						P		~~S~~ P	P	P	~~S~~ P					C	C	A	4.4.C.37
Pool Hall									P	P	P							A	
Racetrack																C	C	A	
Recreational Vehicle Park									P		P							A	4.4.C.38
Repair Shop						P		P	P	P	P				C	C	C	A	4.4.C.39
Restaurant, Indoor/Outdoor Seating						P	P	P	P	P								A	4.4.C.40
Restaurant with Drive-Through/Drive-up Service									P		P							A	4.4.C.40
Restaurant, Walk-up Only						P	P	P	P	P								A	4.4.C.40
Retail Use, Other						P		P	P	P	P							A	
Self Service Storage, External Access									P		P	P	P					A	4.4.C.41
Self Service Storage, Internal Access						P		P	P	P	P	P	P					A	4.4.C.41
Specialty Eating Establishment						P	P	P	P	P	P							A	4.4.C.42
Tattoo and Piercing Establishment						P		P	P	P	P		P					A	
Theatre						P			P	P	P	P	P					A	
Truck Stop									P		P	P	P					A	4.4.C.43
Veterinary Clinic									P	P	P	P	P				C		4.4.C.44
INDUSTRIAL USE CLASSIFICATION																			

Dwellings in a manufactured dwelling park shall comply with the standards in Section 4.4.A.9, Manufactured Dwelling.

11. Mobile Home

Mobile homes on individual lots in the RMH district shall comply with the following standards:

a. All wheels and other transporting devices shall be removed from the chassis of the mobile home.

b. The mobile home shall be installed on a permanent masonry foundation that shall completely enclose a crawl space beneath the unit.

c. A door at either the rear or the end of the dwelling shall provide means of access to the crawl space. The access may be located at the front of the unit when placement at either end is impractical due to topography.

d. The minimum dimensions of the door to the crawl space shall be the same as required for a standard dwelling under the North Carolina Building Code.

e. All mobile homes on individual lots shall have unobstructed access to a public street.

12. Mobile Home Park

Mobile home parks shall comply with the following standards:

a. Minimum Area

i. Every mobile home park shall be located on a well-drained site of not less than six acres.

ii. A public street may divide the site, provided that each conterminous portion of the site shall contain not less than two acres, and the average horizontal dimensions shall be not less than 120 feet.

b. Internal Circulation

i. Vehicular circulation within the park shall be by way of a private driveway or by a public street meeting all City standards.

ii. Private driveways shall maintain a continuous width of 25 feet and have unobstructed access to a public street.

iii. If public streets are provided for internal circulation, up to 60 feet of the width of such streets may be counted toward the minimum area requirements, but streets that are dedicated prior to the date of establishing the park shall not be credited towards the park area requirements.

c. Perimeter Buffer Required

A Type A perimeter buffer configured in accordance with Section 5.3.J, Perimeter Buffers, shall be installed around the perimeter of the development.

d. Drainage and Flooding

i. Every mobile home park shall be so graded as to prevent the accumulation or ponding of water on the premises.

ii. No mobile home park shall be located in a 100-year flood plain or other area subject to flooding.

iii. The drainage of any mobile home park shall not endanger any public or private water supply.

e. Mobile Home Spaces

i. The site plan for a mobile home park shall indicate individual mobile home spaces, regardless of whether the spaces are to be sold, rented, or leased.

ii. The area within the space shall be regarded as a mobile home "lot" for the purpose of this Ordinance.

iii. Yards and setbacks shall be measured from space boundaries.

iv. No more than one mobile home may be parked on any mobile home space.

f. Mobile Home Space Dimensional Requirements

Table 4.4.A.12.f, Mobile Home Space Dimensions, sets out the required setbacks for mobile home structures from the space boundaries:

ii. Meet the minimum off-street parking standards for a religious institution as well as for any accessory uses (e.g., a school, day care, etc.) in Table <>, Minimum Off-Street Parking Requirements.

b. Regardless of the zoning district where located, religious institutions of any size shall provide a Type A buffer along lot lines shared with single-family residential dwellings.

14. School, High

A high school shall not front or gain primary access from a local street serving a residential neighborhood.

15. School, Vocational

Facilities within a vocational school which generate significant noise or fumes, such as auto body or engine repair, industrial/auto body painting, or manufacturing processes, and that are adjacent to a residential district shall be at least 100 feet from any lot line abutting the residential district.

16. Small Wireless Facility

a. Small wireless facilities located outside a public right-of-way shall comply with the applicable standards in Section 1.1.A.1, .

b. Small wireless facilities located within a public right-of-way shall comply with the City's Right-of-Way Management Ordinance.

17. Telecommunications Tower, Major, Minor, or Concealed

Major, minor, and concealed telecommunications towers shall comply with the following~~applicable~~ standards: ~~in Section 4.4.B.18, Wireless Telecommunications.~~

~~**18. Wireless Telecommunications**~~

a. **Purpose and Intent**

This section establishes general standards for the siting of wireless telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the City's jurisdiction have reliable access to wireless telecommunications services. More specifically, the provisions of this section are intended to:

i. Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless telecommunications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;

ii. Encourage the placement of wireless telecommunications facilities in non-residential areas;

iii. Minimize the number of new telecommunications towers in the City;

iv. Create conditions where wireless telecommunications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with state and federal law;

v. Strongly encourage the joint use or collocation of new and existing wireless telecommunications facilities so as to minimize the number of new telecommunications towers throughout the City;

vi. Establish collocation and concealed towers as the preferred options for the accommodation of wireless telecommunications equipment; and

vii. Ensure that wireless telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

b. **Applicability**

The standards in this section shall apply to all wireless telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

i. Removal of antennas, antenna support structures, or wireless telecommunications equipment on an existing telecommunications tower,

5. Automobile Repair and Servicing (without painting/bodywork)

Automobile repair and servicing uses shall comply with the following:

a. If the property abuts a lot in a residential zoning district, the following requirements shall be met:

i. A Type A perimeter buffer shall be provided along any lot line abutting a residential zoning district.

ii. Side yards abutting a lot in a residential zoning shall be at least ten feet in width.

iii. Side yards abutting a lot in a residential zoning shall be at least 20 feet in width.

6. Automobile Sales or Rentals

Uses primarily involving the sales or rental of automobiles, trucks, recreational vehicles, or travel trailers, shall comply with the following standards:

a. Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone;

b. No vehicles or other similar items shall be displayed on the top of a building;

c. All lights and lighting shall be designed and arranged so no source of light is directly visible from any adjacent property; and

d. Repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.

7. Automotive Painting/Body Shop

Automobile painting/body shop uses shall comply with the following standards:

a. The use shall be located at least 250 feet from any residential district, school (except vocational schools), or child day care center.

b. Vehicles shall not be parked or stored as a source of parts.

c. Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and fully screened by an opaque fence or wall of at least six feet in height.

8. Automotive ~~Wrecker Service~~Towing and Storage Lot

Automotive ~~wrecker service~~towing and storage lot uses shall comply with the following requirements:

a. Motor Vehicles

i. A maximum of no more than 50 vehicles at any one time shall be stored on the property.

ii. All towed vehicles must be stored in an approved vehicle towing and storage area.

b. Vehicle Storage Area

i. Size

The minimum size of the fenced storage area shall be 5,000 square feet.

ii. Security

a) A chain link fence, a minimum of six feet in height, shall be provided around all accessible sides of the storage area.

b) All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.

iii. Screening

Storage of motor vehicles shall comply with the applicable standards in Section 5.4, Screening.

iv. Surface

The storage area shall be ~~maintained with an all-weather surface by paving, gravel or as required in the district in which it is located~~paved with asphalt or concrete to minimize dust emissions and the buildup of dirt, mud, and other debris.

i. Except for the following, no accessory use or structure may be located in a required ~~front or side yard~~setback:

a) Art installation;
b) Cluster box unit;
c) Fence or wall;
d) Flag pole and flag;
e) Outdoor display of merchandise; or
f) Produce stand.

ii. On corner lots, an accessory structure or use shall not be closer to the street than the street setback.

c. Within Other Areas on a Site

i. No accessory use or structure shall:

a) Be within five feet of a lot line, except as authorized by Table ~~0~~ 8.3.E, Allowable Encroachment into Setbacks;
b) Be within ten feet of the centerline of an alley except as authorized by Table 8.3.E~~0~~, Allowable Encroachment into Setbacks;
c) Be located within a designated fire lane;
d) Obstruct required sight distances;
e) Impede ingress or egress to a lot, site, or principal structure;
f) Be located above or beneath public utilities (except for fences or walls); or
g) Be within an emergency access route designated on an approved site plan.

ii. Accessory structures may encroach into required ~~yards~~ setbacks only in accordance with the standards in Table 8.3.E~~0~~, Allowable Encroachment into Setbacks.

d. Within an Easement

Except for authorized stormwater management devices within a drainage easement, no accessory use or structure shall be located within any platted or recorded easement without the prior written consent of the landowner.

e. Within LHO District

Accessory structures located in a local historic overlay district shall be subject to a Certificate of Appropriateness in accordance with Section 2.4.D, Certificate of Appropriateness.

3. Structure Height

Accessory structures shall comply with the maximum building height requirements for the zoning district where located, except that accessory structures within 10 feet of a lot line shall not be taller than 15 feet.

4. Compliance with Ordinance Requirements

Accessory uses and structures shall conform to the applicable requirements of this Ordinance, including this section, the district standards in CHAPTER 3: ZONING DISTRICTS~~Chapter 3: Zoning Districts~~, the development standards in CHAPTER 5: DEVELOPMENT STANDARDS~~Chapter 5: Development Standards~~, and the environmental standards in CHAPTER 7: ENVIRONMENT~~Chapter 7: Environment~~.

5. Compliance with Design Standards

a. Accessory uses and structures serving ~~multi-family, mixed-use, and non-residential development~~principle uses subject to the design standards in Section 5.5, Design Standards and Guidelines, shall comply with the design standards applied to the principal use they serve or shall employ exterior materials, colors, and architectural details that are configured to be complimentary to the principal use.

~~a.~~b. The degree to which proposed exterior materials, colors, and architectural details are configured in a complimentary manner to a principal use shall be in the sole opinion of the review authority deciding the application.

E. COMMON ACCESSORY USE TABLE

1. Table as Guide

Section 4.5.E, Common Accessory Use Table, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

2. Listed Accessory Uses

Section 4.5.E, Common Accessory Use Table, lists what types of accessory uses, structures, and activities are allowed in each of the zoning districts.

a. If a specific accessory use is allowed by-right, the cell underneath the zoning district is marked with a "P".

b. If a specific accessory use is allowed subject to a special use permit, the cell underneath the zoning district is marked with a "S".

c. If the accessory use or structure is not allowed in a zoning district, the cell is blank.

d. In the case of planned development districts, if an accessory use is allowable, it is marked with an "A", and the accessory use must be set out in the approved master plan.

e. If there is a reference contained in the column entitled "Acc. Use-Specific Standards," refer to the cited section(s) for additional standards that apply to the specific accessory use.

TABLE 4.5.E: COMMON ACCESSORY USE TABLE [1]

"A" = Allowed if included in Planned Development Master Plan or Terms and Conditions Statement
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" " (blank cell) = Prohibited

Accessory Use Type		Residential					Commercial				Ind.			PD & PDD	Acc. Use-Specific Standards
	PC	RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI		
Accessory Dwelling Unit		P	P	P	P	P	P	P						A	4.5.F.1
Amateur Ham Radio		P	P	P	P	P	P	P	P	P	P			A	4.5.F.2
Art Installation	P	P	P	P	P	P	P	P	P	P				A	4.5.F.3
Automated Teller Machine						P	P	P	P	P	P	P	P	A	4.5.F.4
Bus Shelter	P	P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.5
Child Care, Incidental		P	P	P	P	P	P	P						A	4.5.F.6
Cluster Box Unit		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.7
Detached Carport or Garage		P	P	P	P	P	P	P	P		P	P	P	A	
Drive Through									P	P	S	S		A	4.5.F.8
Electric Vehicle Charging Station						P	P		P	P	P	P	P	A	4.5.F.9
Family Health Care Structure		P	P	P	P	P	P	P						A	4.5.F.10
Fence or Wall	P	P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.11
Flagpole	P	P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.12
Guard House, Shelter, or Gatehouse		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.13
Helistop							P		P	P	P	P	P	A	4.5.F.14
Home Occupation		P	P	P	P	P	P	P	P	P				A	4.5.F.15
~~Ice House~~								~~P~~	~~P~~	~~P~~	~~P~~			~~A~~	~~4.5.F.16~~
Outdoor Dining and Seating						P	P	P	P	P				A	4.5.F.16

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Accessory Use Type		Residential					Commercial				Ind.			PD & PDD	Acc. Use-Specific Standards
	PC	RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI		
Outdoor Display/Sales						P		P	P	P	P			A	4.5.F.17
Outdoor Storage									P	P	P	P	P		4.5.F.18
Parking of Heavy Trucks or Trailers									P		P	P	P	A	4.5.F.20 ~~4.5.F.20~~
Parking of Recreational Vehicles		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.19 ~~1.1.A.1~~
Storage of Unlicensed or Inoperable Vehicles or Trailers			P	P	P		P								4.5.F.25 ~~4.5.F.26~~ ~~1.1.A.1~~
Play Equipment	P	P	P	P	P	P	P	P	P	P				A	4.5.F.21
Produce Stand		P	P	P	P	P	P	P	P	P	P			A	4.5.F.22
Solar Energy Systems		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.23
Stable (horses)		P	P	P	P	P					P			A	4.5.F.24
Swimming Pool/Hot Tub		P	P	P	P	P	P	P	P	P	P			A	4.5.F.25
Tire Storage, Outdoor									P		P		P		4.5.F.27
Tool/Storage Shed		P	P	P	P	P	P	P	P	P	P	P	P	A	
Underground Storage Tank						P		P	P	P	P	P	P	A	4.5.F.27

NOTES:
[1] Unlisted accessory uses may be permitted in accordance Section 4.5.C, Procedure For Establishment.

F. SPECIFIC STANDARDS FOR SELECTED ACCESSORY USES

Standards for a specific accessory use or structure shall apply to the particular individual accessory use or structure regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This section sets forth and consolidates the standards for all accessory uses and structures for which a reference to this section is provided in the "Acc. Use-Specific Standards" column of Section 4.5.E, Common Accessory Use Table. These standards may be modified by other applicable standards or requirements in this Ordinance.

1. Accessory Dwelling Unit

An accessory dwelling unit (ADU) is permitted as accessory to a single-family detached dwelling, and shall comply with the following standards:

a. No more than one ADU shall be located on a lot with a single-family detached dwelling.

b. An ADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure.

c. An ADU shall not exceed one story, but nothing shall limit an ADU from being located on a second or third story provided the structure complies with the applicable maximum height limitations in the district where located.

d. An ADU and the principal dwelling shall have the same street address and mailbox.

e. An ADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit.

a. Home occupation accessory uses shall be clearly incidental and subordinate to a dwelling's use for residential purposes by its occupants.

b. Except for home offices, home occupations shall be engaged in only by a resident on the premises, and not more than one employee may be a nonresident. Home offices shall be limited to no more than two employees not residing on the premises.

c. No more than 25 percent of the first floor area of a dwelling shall be used for home occupations.

d. No display of goods or signage shall be visible.

e. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors or electrical interferences detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

f. No accessory buildings shall be used for home occupations.

g. Only one commercial vehicle with up to one attached trailer associated with the home occupation may be parked or stored on the lot.

h. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

~~16. Ice House~~

~~Ice houses of 50 square feet in size or larger shall comply with the following requirements:~~

~~a.~~ ~~Ice houses shall provide at least one designated off-street parking space and shall not occupy any off-street parking spaces required for the principal use.~~

~~b.~~ ~~Any signage shall comply with the signage provisions for the district where located.~~

~~c.~~ ~~All roof-top mechanical equipment shall be screened.~~

~~d.~~ ~~A litter receptacle shall be provided, and shall be maintained in a sanitary condition.~~

~~e.~~ ~~Ice houses shall not be allowed as a primary use.~~

~~17.~~16. Outdoor Dining and Seating

Outdoor dining shall be in accordance with Section ~~32~~34.176 of the City Code of Ordinances.

~~18.~~17. Outdoor Display/Sales

The outdoor display and sale of goods shall be limited to a commercial or mixed use and shall comply with the following standards:

a. Except in the CBD district, an outdoor display/sales area shall not be located within a required front yard or street setback.

b. In the CBD district, outdoor display/sales areas may be located on or adjacent to the sidewalk provided the display is attached to or located immediately adjacent to a building's front façade wall.

c. Outdoor display/sales areas shall not be located any closer than five feet from any lot line.

d. Outdoor display/sales areas shall not be located within any local or State site easement.

e. Outdoor display areas shall maintain at least five feet of space along the side of the display free of obstruction to allow for pedestrian and handicap movement, such that pedestrians do not have to step off the sidewalk or enter the drive aisle to see the merchandise.

~~19.~~18. Outdoor Storage

a. General Standards

The following standards shall apply to all outdoor storage areas other than uses where outdoor storage is the principal use of land (see Table 4.2.C, Principal Use Table).

i. The extent of the outdoor storage area shall be clearly delineated on a site plan.

ii. Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located.

iii. Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial (principal and minor) or collector street.

iv. Outdoor storage areas shall be fully screened in accordance with the applicable standards in Section 5.4, Screening.

v. No outdoor storage area shall be located within a required landscaping area.

vi. Stored goods, materials, and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot.

vii. No materials shall be stored in areas intended for vehicular or pedestrian circulation.

viii. No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

b. **Screening Requirements**

Outdoor storage shall be screened in accordance with the applicable standards in Section 5.4, Screening.

~~20.~~19. Parking of Recreational Vehicles

Nothing herein shall be construed so as to prohibit the parking of personal recreational vehicles~~ including but not limited to motor homes, vans, or campers~~.

~~21.~~20. Parking of Trucks or Trailers

a. The parking and/or storage of motorized and non-motorized vehicles in excess of 10,000 pounds gross vehicle weight shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.

b. No apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle shall be allowed to be used as a storage facility or accessory building in any residential district.

~~22.~~21. Play Equipment

Play equipment shall comply with the setback requirements for the zoning district where located, though it may encroach into setbacks in accordance with Table 8.3.E~~0~~, Allowable Encroachment into Setbacks.

~~23.~~22. Produce Stand

The sale of fresh vegetables and produce, as defined in Section 153A.340.b.2 of the North Carolina General Statutes, from curbside stands or in a similar fashion shall:

a. Be located on the same lot as a principal use;

b. Be limited to retail sale of agricultural or horticultural products grown on-site or in agricultural facilities under the same ownership as the produce stand;

c. Be located outside sight distance triangles or other areas that may result in visual obstructions to drivers;

d. Not exceed 1,000 square feet in area; and

e. Provide adequate ingress/egress and off-street parking.

~~24.~~23. Solar Energy System

A solar energy system (SES) shall comply with the following requirements:

a. A SES may be roof-mounted, attached to a principle or accessory structure, be ground-mounted, or placed over a parking or other hard-surface area.

b. The footprint of a ground-mounted SES shall not exceed 50 percent of the floorplate of the principal structure, or one acre, whichever is less.

c. An SES shall comply with the dimensional requirements for the district where located, as modified by Section 4.5.D, General Standards for Accessory uses and Structures.

d. An SES shall not obscure required sight distance triangles.

e. A SES may be placed within a required landscaping area provided it does not compromise the screening objective of the landscaping.

TABLE 5.1.D.9: MINIMUM OFF-STREET PARKING SPACES REQUIRED	
USE TYPE	**MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES [1] [2]**
Automotive Painting/Body Shop	2 + 1 per every service bay
Automotive Parts and Accessory Sales	1 per every 200 sf
Automotive ~~Wrecker Service~~Towing and Storage Lot	1 per employee on the largest shift
Bar, Cocktail Lounge, or Private Club	1 per every 150 sf
Bed and Breakfast	2 + 1 per every rental unit
Boat and Marine Rental, Sales, and Service	1 per every 600 sf
Bottle Shop (with on premise consumption)	1 per every 4 seats
Bulky Items Sales	1 per every 600 sf
Business Incubator	1 per every 450 sf
Campground	1 + 1 per every camping space
Car Wash or Automobile Detailing	2 per every washing bay
Catering Establishment	1 per every 300 sf
Check Cashing/Payday Lending	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Coffee Shop	1 per every 150 sf
Computer-related Service	1 per every 600 sf
Convenience Store (no gasoline sales)	1 per every 200 sf
Convenience Store (with gasoline sales)	1 per every 200 sf
Co-Working Space	1 per every 250 sf
Electronic Gaming Operation	1 per every 200 sf
Equipment and Tool Rental	1 per every 600 sf
Event Venue	1 per every 150 sf
Fairgrounds	1 per every 600 sf of use area
Financial Service	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Flea Market	1 per every 200 sf
Funeral-related Service	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in chapel
Games of Skill	1 per every 200 sf
Golf Course	1 per every 4 persons of design capacity
Golf Driving Range	2 + 1 per every tee
Gymnasium/Fitness Center	1 per every 200 sf
Hair, Nails, and Skin-related Service	1 per every 200 sf
Heavy Equipment Sales, Rental, and Repair	1 per every 600 sf
Hotel or Motel	5 + 1 per every rental unit
Indoor Commercial Recreation	1 per every 200 sf
Kennel, Indoor/Outdoor	1 per every 200 sf
Large Format Retail	1 per every 200 sf
Laundry and Cleaning Service	1 per every 200 sf used by the public
Microbrewery or Microdistillery	1 per every 150 sf
Nightclub or Dance Hall	1 per every 150 sf
Office, Medical	4 per every doctor/practitioner

TABLE 5.1.H: STACKING SPACES REQUIRED		
USE OR ACTIVITY	**MINIMUM NUMBER OF STACKING SPACES REQUIRED**	**ORIGIN POINT OF MEASUREMENT FOR STACKING SPACES**
Assisted living facility and nursing home	3	Building entrance adjacent to stacking spaces
Automated teller machine (drive through)	2	Teller machine
Automobile repair and servicing/Automotive painting or body shop	1 per bay	Bay entrance
Car wash or automobile detailing	1 per bay for manual car washes, otherwise 3	Bay/wash process entrance
Child day care center	2	Building entrance adjacent to stacking spaces
Convenience store with gasoline sales	1	Each end of the outermost gas pump
Coffee shop with a drive through	[1]	[1]
Equipment and tool rental	2	Security gate
Financial services with a drive through	3 per lane	Agent window
Funeral-related service	2	Building entrance adjacent to stacking spaces
Gasoline sales, whether as a principal or accessory use	1	Each end of the outermost gas pump
Heavy equipment sales, rental, and repair	2 [2]	Security gate
Hospital	4	Building entrance adjacent to stacking spaces
Hotel or motel	2	Building entrance adjacent to stacking spaces
Laundry and cleaning service with a drive through	3	Agent window or door intended for service to vehicles
Outpatient treatment facility	4	Building entrance adjacent to stacking spaces
Pharmacy with a drive through	3 per lane	Agent window
Post office	2	Each mailbox intended for access via automobile
Public convenience center/transfer station	5	Front edge of scale
Restaurant with a drive through	[1]	[1]
School (elementary, middle, or high school)	3	Building entrance adjacent to stacking spaces
Truck of freight terminal	1 [3]	Security gate
Truck stop	[4]	[4]
NOTES: [1] Stacking spaces shall be provided in accordance with a stacking space needs study prepared for the specific use type proposed and in accordance with the business model and local experience of similar establishments and authored by professional engineer licensed by the State of North Carolina. [2] Each stacking space shall be at least 50 feet long. [~~2~~3] The stacking space shall be of sufficient length to accommodate a trailer attached to a cab. [~~3~~4] Subject to the standards for gasoline sales if provided to individual passenger automobiles.		

2. Design

3. Perimeter Plantings

a. Intent

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

b. Location

Required plant material shall be placed adjacent to the perimeter of the parking lot.

c. Planting Rate

i. Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

ii. Applicants may propose an alternative plant species ~~, such as native grasses,~~ provided the proposed plant material provides a fully opaque screen to a maximum height of 36 inches above grade throughout the year, as approved by the Zoning/Subdivision Administrator.

d. Size of Plant Material

i. Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.

ii. In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they shall be trimmed or pruned as necessary to maintain a minimum height of 36 inches.

iii. It shall be a violation of this Ordinance to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

e. Alternatives

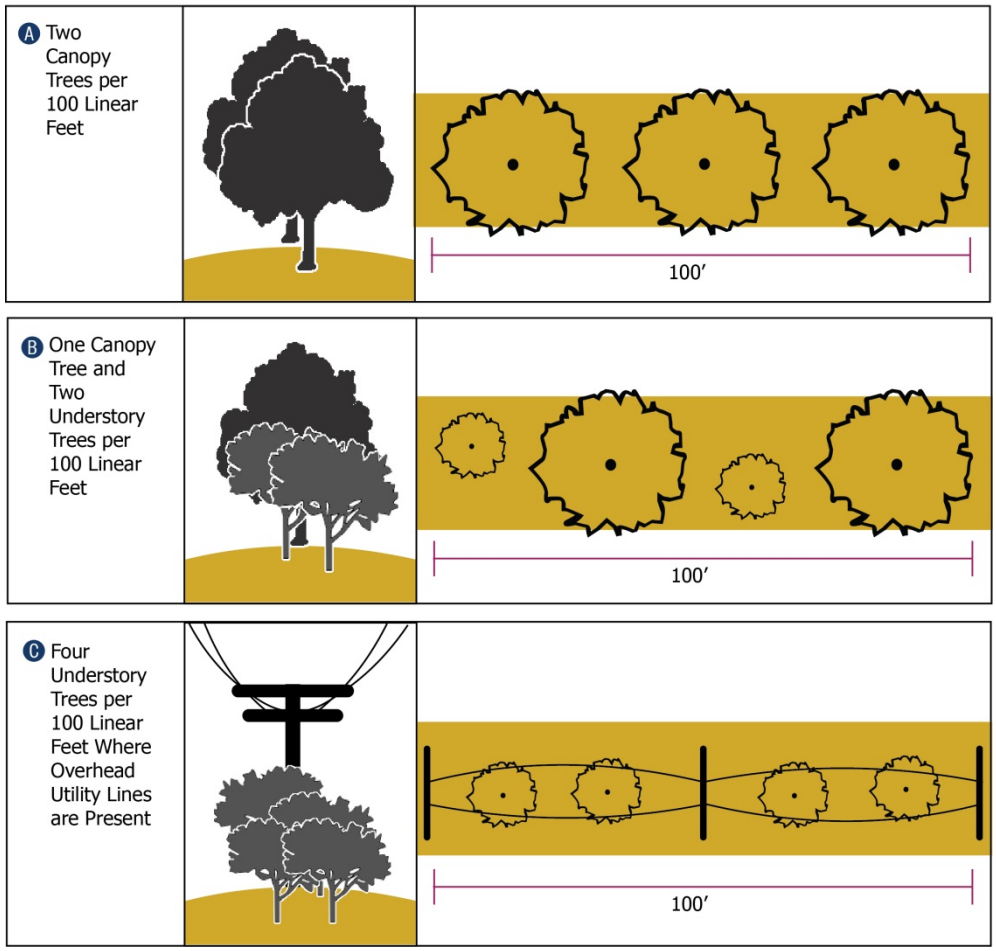
Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with Section 5.3.H.1, Berms, or an opaque fence or wall that meets the screening objective of this section and is configured in accordance with Section 5.3.H.2, Fences and Walls.

f. Exemptions

i. Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings or other forms of screening are not required along the common boundary between the two parking lots.

ii. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

FIGURE 5.3.K: STREETSCAPE BUFFER CONFIGURATION



5. Placement

a. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.

b. Canopy trees shall be located within ten feet of the right-of-way edge.

c. Understory trees shall be located within five feet of the right-of-way edge.

d. An alternative location may be approved by the Zoning/Subdivision Administrator in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.

6. Prohibited Features

Off-street parking, off-street loading, merchandise display, or outdoor storage shall not take place within a required streetscape buffer.

L. STREET TREES

Development within the CBD, PD, and PDD districts, as well as development within GCO districts subject to City-adopted or approved plans that call for the establishment of street trees shall provide street trees in accordance with the following standards:

1. Where Required

Street trees shall be located within tree pits or planting strips within the street right-of-way (see Figure 5.3.L: Street Tree Configuration).

2. Location

a. Within Tree Pits

5.4. SCREENING

A. PURPOSE AND INTENT

These standards are intended to reduce the visual and auditory impact upon adjacent lots and the public realm from certain site features and activities occurring on individual nonresidential, multi-family and mixed use lots. In addition to mitigating negative impacts, these standards are also proposed to enhance the aesthetics of development in the City's jurisdiction.

B. USING THESE STANDARDS

1. These standards identify a series of use types, site features, and activities that are required to be screened from off-site views (see Section 5.4.C, Applicability, and Section 5.4.D, Exemptions).

2. The standards establish a series of screening methods organized into differing levels (e.g., Level 1 through Level 10). The higher the screening method's level number, the greater its opacity, or its ability to obscure a particular site feature from off-site view (see Table 5.4, Screening Methods).

3. The standards identify which methods of screening may be used to screen a site feature or activity from view from a particular location, such as an adjacent street or abutting lot with residential zoning (see Table 5.4.F: Views to be Screened). Nothing prohibits a landowner from using a more intense or opaque screening technique than is required by Table 5.4.F: Views to be Screened.

C. APPLICABILITY

1. Generally

Unless exempted in accordance with Section 5.4.D, Exemptions, the standards in this section apply to the following site features and activities for all development in the City's jurisdiction:

a. Refuse collection containers of more than 100 gallons in size;

b. Recycling containers of more than 100 gallons in size, including cardboard recycling containers;

c. Waste and cardboard compactors;

d. Ground-based mechanical equipment, including but not limited to wireless telecommunications equipment, permanently-mounted electrical generators, compressors, climate control equipment, breaker panels, meters, electrical service risers, and similar equipment;

e. Roof-mounted equipment of any kind;

f. Above ground storage tanks for gases, solids, or liquids;

g. Outdoor equipment storage or repair areas;

h. Outdoor storage of raw or semi-finished materials, including tires;

i. Outdoor storage of finished products for sale, including tires; and

~~**j.**~~ The outdoor storage, repair, or impoundment of vehicles or equipment, whether operable, inoperable, or being used for parts~~Impounded vehicles and equipment;~~

~~**k.** Vehicles and equipment being repaired; and~~

~~**l.**~~**j.** ~~Inoperable vehicles being used for parts~~.

2. Pre-Existing Development

Lawfully-established development established prior to November 1, 2019, that is subject to, but that does not comply with these standards shall be subject to applicable the standards in CHAPTER 9, NONCONFORMITIES.

3. Expansions or Remodeling

All expansions or remodeling of principal buildings or open uses of land existing on or before November 1, 2019, shall comply with these standards, subject to the requirements in Section 9.6, Nonconforming Sites.

D. EXEMPTIONS

The following items are exempted from the screening requirements of this section:

1. Any of the features listed in sub-section (5.4.C) above that are located entirely within a building;

TABLE 5.4: SCREENING METHODS [1]	
LEVEL OF SCREENING	**REQUIREMENTS**
10. Screening Level 10:	**Parapet Wall**
	a. Parapet walls shall be comprised of the same exterior material or be the same color as the building and shall be capped with a cornice, coping, or other decorative molding. b. Parapet walls shall be in alignment with the exterior building wall below. c. Parapet walls shall extend above the roof deck the minimum height necessary to screen roof-mounted equipment as seen from grade-level at the lot line. d. Parapet walls shall be engineered to comply with all applicable North Carolina Building Code requirements, including wind loading.
NOTES: [1] Screening provided in accordance with this section shall be credited towards perimeter buffer and parking lot landscaping requirements (see Section 5.3, Landscaping) when the screening methods contribute to the performance objective of required landscaping.	

F. VIEWS TO BE SCREENED

Site features and activities subject to these standards shall be screened from identified locations in Table 5.4.F: Views to be Screened. The level of screening provided is at the applicant or landowner's discretion, provided it meets or exceeds the minimum screening level specified in the table below.

TABLE 5.4.F: VIEWS TO BE SCREENED

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM ABUTTING LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM ABUTTING LAND IN AN OI, NB, GB, CBD, OR CB ZONING DISTRICT	FROM ABUTTING LAND IN AN LI, MI, HI, OR CI ZONING DISTRICT
Refuse or Recycling Containers or Compactors	4 or higher	3 or higher	1 or higher	1 or higher
Ground-based Mechanical Equipment	3 or higher	2 or higher	1 or higher	1 or higher
Roof-mounted Equipment	10	9 or higher		1 or higher
Above Ground Storage Tanks	4 or higher	3 or higher	1 or higher	1 or higher
Outdoor Equipment Storage or Repair	4 or higher	3 or higher	2 or higher	1 or higher
Outdoor Storage of Raw or Semi-finished Materials	3 or higher		2 or higher	1 or higher
Outdoor Storage of Finished Products for Sale	1 or higher	2 or higher	1 or higher	1 or higher
~~Impounded Vehicles and Equipment~~	~~4 or higher~~	~~5 or higher~~	~~3 or higher~~	~~1 or higher~~
Vehicles and Equipment Being Stored, Repaired, or Impounded, Whether Operable,	4 or higher	5 or higher	3 or higher	1 or higher

TABLE 5.4.F: VIEWS TO BE SCREENED				
FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM ABUTTING LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM ABUTTING LAND IN AN OI, NB, GB, CBD, OR CB ZONING DISTRICT	FROM ABUTTING LAND IN AN LI, MI, HI, OR CI ZONING DISTRICT
Inoperable, or Being Used for Parts				
~~Inoperable Vehicles Being Used for Parts~~	~~4 or higher~~	~~5 or higher~~	~~3 or higher~~	~~1 or higher~~

Easements of at least 30 feet in width, as centered on the pipe, shall be provided for public sanitary sewer systems in locations as may be directed by the Planning Department and/or the City Engineer for sewer collection lines and access points.

d. Easement Upsizing

The City Engineer may increase the easement widths for public water and sewer services based on the size of the line, the required depth of the line, or the need to remain clear of other utilities.

3. Drainage

a. Provision of drainage facilities to maintain the established flow of off-site water through any property to be subdivided shall be the responsibility of the subdivider.

b. No subdivision shall block or obstruct the natural drainage of an adjoining area.

c. Easements, when required for drainage of the area to be subdivided, shall be of such width as is necessary to permit proper construction and maintenance of the drainage facilities required to drain the area properly.

d. Open channel drainage easements shall be of a minimum width of 10 feet.

e. Drainage easements containing piped stormwater facilities shall be at least 20 feet in width.

f. The City Engineer may require drainage easements up to 50 feet in width as necessary in the public interest.

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

h. Existing natural drainage shall be retained or adequately relocated.

4. Maintenance

a. All easements for drainage or utilities shall be cleared of undergrowth, trees, and other obstructions prior to approval of the final plat unless the City Engineer certifies in writing that such clearance is unnecessary.

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

c. Easements for stormwater management facilities and stormwater drainage systems located outside the street right-of-way shall be maintained by an owner's association, and maintenance responsibility for these features shall be indicated on the final plat.

5. Identification

All easements shall be granted in favor of the City of Burlington, the State of North Carolina, the appropriate utility provider, a owner's association, as appropriate, and shall be shown and clearly labeled on the final plat.

G. LANDSCAPING

1. Subdivisions shall comply with the landscaping requirements in Section 5.3.J, Perimeter Buffers, as applicable.

2. Subdivisions that include new streets shall comply with the requirements in Section 5.3.K, Streetscape Buffers.

~~G.~~H. CLUSTER MAILBOXES

When cluster mailbox units are required by the US Postal Service, they shall be configured in accordance with the City of Burlington's Engineering Specifications and Standard Details Manual.

6.5. UTILITIES AND INFRASTRUCTURE

A. POTABLE WATER SYSTEMS

1. Water Supply System Required

a. Every lot within a subdivision shall be served by a means of a water supply that is adequate to accommodate the reasonable needs of the use or subdivision lot(s).

b. No on-site water supply system shall be allowed in cases where the public potable water supply system is adjacent to or within 1,000 linear feet of the lot being developed.

c. All materials and pipes shall meet or exceed the requirements established under State law and by the City for the potable water system.

d. The City may, before issuing any permit under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the developer or his or her successor will be able to comply with the water supply system requirements of this Ordinance.

2. Dedication and Acceptance

a. The subdivider or developer shall install all potable water supply lines and service connections in accordance with the standards in this Ordinance and other State or federal requirements.

b. The developer shall provide all the necessary pipes and accessories for installation of the required potable water lines.

c. Potable water supply lines, including water tanks, distribution lines, water mains, and laterals shall be dedicated to the City for maintenance and operation.

d. Supply lines serving individual lots or uses beyond the water meter shall not be the responsibility of the City.

3. Connection to City Water Supply System

a. The subdivider shall connect to the City's potable water supply system when new lots are created on existing streets and the water system is adjacent to the lot, or is within 1,000 linear feet of the lots being developed.

b. Subdivision~~s~~ of ~~more than two acres containing~~ three or fewer lots on an existing street shall not be required to connect to the City's existing potable water supply system unless it is located adjacent to one or more of the lots being subdivided.

4. Oversizing of Water Supply System-Related Improvements

a. The water supply system where the subdivision is being developed may require installation of certain oversized facilities, such as water mains in excess of eight inches in diameter, when it is in the interest of future development.

b. When oversizing is required, the public water system operating where the subdivision is located shall pay for that portion of the improvement that exceeds the standards set forth in this Ordinance.

c. When oversizing is required, the developer shall enter into a development agreement (see Section 2.4.F, Development Agreement) with the City for reimbursement of the cost of the oversize lines.

5. On-Site Potable Water System

a. No preliminary plat for a subdivision proposing to use an on-site potable water system shall be approved until the appropriate county health department has certified that each lot shown on the preliminary plat has been inspected and found suitable for an on-site potable water system.

b. No final plat or other approval for a subdivision proposing to use an on-site potable water system shall be approved until the appropriate county health department has certified that each lot in the subdivision has been inspected and found suitable for an on-site potable water system capable of serving the intended or likely use of the lot.

c. Subdivisions already subject to preliminary plat approval including such certification shall be exempted from this requirement provided the ultimate use is consistent with the use anticipated during certification at preliminary plat stage.

6.7. PERFORMANCE GUARANTEES

A. PURPOSE AND INTENT

These standards create the additional flexibility necessary for development to be occupied or for lots in a subdivision to be conveyed prior to completion of all required infrastructure or site improvements, provided funds have been reserved for completion of these features. These provisions ensure that funds are available for the City's use to complete required pubic infrastructure or private site features in the event an applicant or developer is unable to do so.

B. ELIGIBLE FACILITIES AND FEATURES

1. The following facilities and site features may be eligible for performance guarantees at the discretion of the City:

a. Public Facilities

The following forms of public infrastructure may be completed subject to a performance guarantee:

i. Sidewalks;
ii. Greenways;
iii. Multi-use paths; or
iv. The final lift of asphalt on a street.

b. Private Site Features

i. The following forms of private site features may be completed subject to a performance guarantee:

a) Required landscaping;
b) Private stormwater management facilities; and
c) Reforestation activity (see Section 7.2, Reforestation).

ii. All other required site features shall be completed prior to issuance of a certificate of occupancy for the development.

2. Performance guarantees shall be configured and managed in accordance with the standards in this section.

C. INELIGIBLE FACILITIES

The following infrastructure facilities are not eligible for performance guarantees, and shall be completed and dedicated to the City prior to approval of the final plat:

1. Potable water;
2. Sanitary sewer;
3. Public stormwater management facilities;
4. Curb and gutter;
5. Street signs, traffic control signals, and
6. Street lights.

D. MAXIMUM TERM OF GUARANTEE

Performance guarantees ~~associated with landscaping or reforestation~~ shall have a maximum term of one year, ~~otherwise there shall be no maximum term or expiration for other performance guarantees~~unless the developer determines a longer term is necessary to complete the public facilities or private site features. Acceptance of the proposed guarantee remains at the discretion of the City.

E. FORM OF GUARANTEE

1. The applicant shall determine the form(s) of the performance guarantee, which shall be provided in one or more of the following forms:

a. Cash or Irrevocable (Evergreen) Letter of Credit

i. The developer shall deposit cash or an irrevocable (or "evergreen") letter of credit, either with the City or in escrow with a North Carolina financial institution.

ii. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the City guaranteeing the following:

~~c. A copy shall be simultaneously submitted to the Guilford or Alamance Soil and Water Conservation District at least 30 days prior to the commencement of the proposed activity.~~

2. Financial Responsibility and Ownership

a. Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact.

b. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents.

c. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, these standards, or rules or orders adopted or issued pursuant to these standards.

d. Except as provided in subsection 7.5.D.2.e below, or Section 7.5.D.9, Transfer of Erosion and Sedimentation Control Plan, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

e. If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

3. Environmental Policy Act Document

a. Any Plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (Section 113A-1, et seq. of the North Carolina General Statutes) shall be deemed incomplete until a complete environmental document is available for review.

b. The City of Burlington shall promptly notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to these standards shall not begin until a complete environmental document is available for review.

4. Content

a. The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of these standards.

b. Plan content may vary to meet the needs of specific site requirements.

c. Detailed guidelines for Plan preparation may be obtained from the City of Burlington's Engineering Department, upon request.

~~**5. Soil and Water Conservation District Comments**~~

~~**a.** The District shall review the Plan and submit any comments and recommendations to the City of Burlington within 20 days after the District received the Plan, or within any shorter period of time as may be agreed upon by the District and the City of Burlington.~~

~~**b.** Failure of the District to submit its comments and recommendations within 20 days or within any agreed upon shorter period of time shall not delay final action on the Plan.~~

~~6.~~5. Timeline for Decisions on Plans

a. The City of Burlington will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved.

b. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval.

c. The City of Burlington will review each revised Plan submitted to them and within 15 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, ~~approved with performance reservations,~~ or disapproved.

d. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.

~~7.~~6. Approval

a. The City of Burlington shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control.

b. Approval assumes the applicant's compliance with the federal and State water quality laws, regulations, and rules.

c. The City of Burlington shall condition approval of Plans upon the applicant's compliance with federal and State water quality laws, regulations and rules.

d. Approved plans shall expire two years from the approval date if no land disturbing activity has begun or two years from the date of documented inactivity on sites where a permitted land disturbing activity has been initiated.

~~8.~~7. Disapproval for Content

a. The City of Burlington, may disapprove a Plan or draft Plan based on its content.

b. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.

~~9.~~8. Other Disapprovals

a. The City of Burlington shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

b. The City of Burlington may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under Section 7.5.D.9, Transfer of Erosion and Sedimentation Control Plan, upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

i. Is conducting or has conducted land-disturbing activity without an approved Plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to these standards and has not complied with the notice within the time specified in the notice.

ii. Has failed to pay a civil penalty assessed pursuant to these standards or a local ordinance adopted pursuant to these standards by the time the payment is due.

iii. Has been convicted of a misdemeanor pursuant to Section 113A-64(b) of the North Carolina General Statutes, or any criminal provision of a local ordinance adopted pursuant to these standards.

iv. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to these standards.

v. In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the City of Burlington pursuant to Section 7.5.D.8, Other Disapprovals, the City shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The City of Burlington shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 7.5.O, Guarantees, the applicant may appeal the local government's disapproval of the plan directly to the Commission.

c. For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

~~10.~~9. Transfer of Erosion and Sedimentation Control Plan

The City of Burlington administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur, as provided in this subsection.

a. The City of Burlington may transfer a Plan if all of the following conditions are met:

i. The successor-owner of the property submits to the local government a written request for the transfer of the Plan and an authorized statement of financial responsibility and ownership.

ii. The City of Burlington finds all of the following:

a) The Plan holder is one of the following:

i) A natural person who is deceased.

ii) A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

iii) A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

iv) A person who has sold the property on which the permitted activity is occurring or will occur.

b) The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

c) The successor-owner is the sole claimant of the right to engage in the permitted activity.

d) There will be no substantial change in the permitted activity.

b. The Plan holder shall comply with all terms and conditions of the Plan until such time as the Plan is transferred.

c. The successor-owner shall comply with all terms and conditions of the Plan once the Plan has been transferred.

d. Notwithstanding changes to law made after the original issuance of the Plan, the City of Burlington may not impose new or different terms and conditions in the Plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the City of Burlington from requiring a revised Plan pursuant to Section 113A-54.1(b) of the North Carolina General Statutes.

~~11.~~10. Notice of Activity Initiation

No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.

~~12.~~11. Preconstruction Conference

When deemed necessary by the approving authority a preconstruction conference may be required.

~~13.~~12. Display of Plan Approval

A Plan approval issued under these standards shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

~~14.~~13. Required Revisions

a. After approving a Plan, if the City of Burlington, either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the City of Burlington shall require a revised Plan.

b. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

c. If, following commencement of a land-disturbing activity pursuant to an approved Plan, the City of Burlington determines that the Plan is inadequate to meet the requirements of these standards, the City of Burlington may require any revision of the Plan that is necessary to comply with these standards.

~~15.~~14. Amendment to a Plan

Applications for amendment of a Plan in written or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the City of Burlington, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.

~~16.~~15. Failure to File a Plan

Any person engaged in land-disturbing activity who fails to file a Plan in accordance with these standards, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this Ordinance.

~~17.~~16. Self-Inspections

a. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the Plan after each phase of the Plan has been completed and after establishment of temporary ground cover in accordance with Section 113A-57(2) of the North Carolina General Statutes.

b. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.

c. The inspections required by this subsection shall be in addition to inspections required by Section 113A-61.1 of the North Carolina General Statutes.

d. Where inspections are required by ~~Section 7.5.D.16, Failure to File a Plan~~this section~~,~~ and Section 113A-54.1(e) of the North Carolina General Statutes, the following apply:

i. The person who performs the inspection shall make a record of the site inspection by documenting the following items:

a) All of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in subsection 7.5.D.16.d.iii) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation.

b) The completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report.

The governing body of the City of Burlington shall determine the amount of the civil penalty based upon the following factors:

i. The degree and extent of harm caused by the violation,
ii. The cost of rectifying the damage,
iii. The amount of money the violator saved by noncompliance,
iv. Whether the violation was committed willfully, and
v. The prior record of the violator in complying of failing to comply with these standards.

c. Notice of Civil Penalty Assessment

i. The governing body of the City of Burlington shall provide notice of the civil penalty amount and basis for assessment to the person assessed.
ii. The notice of assessment shall be served by any means authorized under Section 1A-1, Rule 4 of the North Carolina General Statutes.
iii. A notice of assessment by the City of Burlington shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the City of Burlington (as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice.
iv. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.

d. Final Decision

The final decision on contested assessments shall be made by the City Council in accordance with this Ordinance and any other adopted regulations pertaining to soil erosion and sedimentation control.

e. Appeal of Final Decision

Appeal from the final decision of the ~~governing body of the City of Burlington~~City Council or BOA shall be to the Superior Court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the City of Burlington.

f. Collection

i. If payment is not received within 60 days after it is due, the City of Burlington may institute a civil action to recover the amount of the assessment.
ii. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located.
iii. Such civil actions must be filed within three years of the date the assessment was due.
iv. An assessment that is not contested is due when the violator is served with a notice of assessment.
v. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

g. Credit of Civil Penalties

i. The clear proceeds of civil penalties collected by the City of Burlington under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with Section 115C-457.2 of the North Carolina General Statutes.
ii. Penalties collected by the City of Burlington may be diminished only by the actual costs of collection.
iii. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual

basis, based upon the computation of actual collection costs by ~~each~~ the City of Burlington for the prior fiscal year.

iv. In any event, the cost percentage shall not exceed 20 percent of penalties collected.

2. Criminal Penalties

Any person who knowingly or willfully violates any provision of these standards, or rule or order adopted or issued pursuant to these standards, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed $5,000.00 as provided in Section 113A-64 of the North Carolina General Statutes.

S. INJUNCTIVE RELIEF

1. Violation of Local Program

Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the City of Burlington, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by these standards, institute a civil action in the name of the City of Burlington, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

2. Abatement of Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of these standards.

T. RESTORATION AFTER NON-COMPLIANCE

The City of Burlington, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by Section 113A-57 (3) of the north Carolina General Statutes, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized ~~under this ordinance~~by these standards.

U. SEVERABILITY

If any section of these standards is held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

E. SETBACK ENCROACHMENTS

Table 8.3.E~~0~~, Allowable Encroachment into Setbacks, sets out the kinds of features that are permitted to encroach within a required setback, provided they do not obstruct visibility for motorists at any street intersection (see Figure 8.3.E~~Error! Reference source not found.~~: Setback Encroachments).

TABLE 8.3.E~~.1~~: ALLOWABLE ENCROACHMENT INTO REQUIRED SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT DISTANCE INTO A REQUIRED SETBACK
Awnings	May encroach into any setback up to eight feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access
Balcony or Bay Window	May extend up to four feet into any required setback within a residential zoning district, but shall be no closer than three feet from any lot line
Bicycle Parking Facilities	Allowed within a setback, but no closer than five feet to the edge of the pavement of a street
Canopy, Attached	May encroach into any setback up to three feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access In the CBD district, a canopy shall maintain a minimum distance of at least two feet from the back of the curb
Canopy, Freestanding	May be located in a setback provided no portion is closer than 15 feet to a street right-of-way
Chimneys, Fireplaces, Outdoor Kitchens, or steps	May extend up to four feet into any setback, but shall be no closer than three feet from any lot line
Cornice, Beltcourse, or Sill	May extend up to one-and-one-half feet into any required setback
Decks, Covered	Subject to the setbacks applied to principal structures
Decks, Uncovered	May extend up to four feet into a required side yard or ten feet into a required street or rear yard
Driveways	May be located in any required setback
Elevators and Similar Mechanical Devices	May encroach into side setbacks no more than 18 inches and rear setbacks no more than 36 inches
Fences or Walls, excluding Retaining Walls	May be located in any required setback, subject to the limitations in Section 5.3.H.2, Fences and Walls, but shall not be located within a required sight distance triangle
Flagpoles, Mailboxes, Lamp and Address Posts	May be located in any required setback
Detached Garage	May be located within rear yard, provided the structure is more than 10 feet from the principal dwelling
Gazebo or Garden Structure	May not be located within a street setback
Handicap Ramps	May be located in any required setback provided it does not unduly obstruct pedestrian or vehicular access

DEFINITIONS	
AUTOMOTIVE ~~WRECKER SERVICE~~TOWING AND STORAGE LOT	An establishment operated for the purpose of temporary storage on-site of ~~no more than nine wrecked or inoperable~~ operable or inoperable vehicles ~~for a period no longer than 90 days~~. If an establishment ~~has ten or more inoperable vehicles located on-site, stores inoperable vehicles for more than 90 days~~, stacks vehicles~~,~~ or portions of ~~the~~ stored vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.
AWNING	A plastic, canvas, or metal porch or shade supported by a frame and often foldable that is placed over a storefront, doorway, or window.
B	
BALANCE OF WATERSHED	The entire land area within a water supply watershed contributing surface drainage to a specific point, the public water supply intake, minus the watershed critical area.
BALCONY	A platform on the outside of a building that is accessible from an upper-story door or window and bounded by a building wall on at least one side, with its open sides surrounded by a railing.
BANNER	A sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. Flags are mounted along one side and shall not be considered banners.
BAR, COCKTAIL LOUNGE, OR PRIVATE CLUB	An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food. Such uses may also provide on-site entertainment in the form of live performances, dancing, billiards, or other entertainment activities.
BARBED OR RAZOR WIRE	Wire serving as a fence or located on top of a fence, wall, or building, that includes clusters of short spikes set at regular intervals or supplemented with strands of sharpened metal used as a security method to deter people or animals from climbing the fence, building, or wall.
BASE FLOOD	The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
BASE FLOOD ELEVATION	A determination of the water surface elevations of the base flood as published in the flood insurance study. When the base flood elevation has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a federal or State or other source using FEMA approved engineering methodologies.
BASEMENT	Any area of a building having its floor subgrade (below ground level) on all sides.
BAY WINDOW	A window, typically with two or more sides that is built to project outward from an outside wall.
BED AND BREAKFAST	A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to breakfast for guests only.
BEING CONDUCTED	As used in Section 7.5, Soil Erosion and Sedimentation, a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
BERM	An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.

DEFINITIONS	
DESIGNEE	A person selected or designated to carry out a duty or role.
DETACHED CARPORT OR GARAGE	An accessory structure that is not physically attached or connected to a principal structure that is typically used for the storage of automobiles or equipment.
DETENTION BASIN	Surface storage basins or facilities that provide flow control through attenuation of stormwater runoff. They also facilitate some settling of particulate pollutants. Detention basins are normally dry and in certain situations the land may also function as a recreational facility.
DEVELOPER	A person engaging in land, site, or building development.
DEVELOPMENT	Any man-made change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. For the purposes of the WPO, development includes any land-disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or that otherwise decreases the infiltration of precipitation into the soil. As used in the riparian buffer standards, development has the same meaning as is defined in Rule 15A NCAC 2B .0202(23). As used in Section 7.4, Stormwater, any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration or precipitation into the soil.
DEVELOPMENT AGREEMENT	A written agreement between the City and a developer or applicant that sets down the rights and responsibilities of each party as pertaining to a single development.
DEVELOPMENT ENTRY POINT	A vehicular access point providing ingress or egress to an individual neighborhood or development.
DIAMETER AT BREAST HEIGHT (DBH)	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Ordinance. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.
DIRECTOR	As used in Section 7.4, Stormwater, the Director of the Division of Water Quality is the North Carolina Department of Environmental Quality. As used in Section 7.5, Soil Erosion and Sedimentation, the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.
DISCHARGE POINT	As used in Section 7.5, Soil Erosion and Sedimentation, that point at which storm water runoff leaves a tract of land.
DISPOSAL	For the purposes of the FHO, the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground water.

DEFINITIONS	
EXISTING DEVELOPMENT	Those projects that are built or those projects with an established a vested right established in accordance with Section 1.12, Vested Rights, as of the effective date of this Ordinance. As used in the riparian buffer standards, existing development means development, other than that associated with agricultural or forest management activities that meets one of the following criteria: 1. It either is built or has established a vested right based on statutory or common law, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or 2. It occurs after the compliance date set out in Sub-Item (4) (d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.
EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION	As used in Section 3.19, Flood Hazard Overlay (FHO) District, means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.
EXISTING TREE(S)	Trees or other woody vegetation that exist and are retained on a development site.
EXPANSION	An increase in the floor area of an existing structure or building, or the increase of area of a use.
EX-PARTE COMMUNICATION	Any communication between a member of a decision-making body and another person involved in a development application that is made without the presence or knowledge of the other members of the same decision-making body.
EXPEDITED SUBDIVISION	A subdivision of three or fewer lots comprised of more than five acres in accordance with Section 160A-376 of the North Carolina General Statutes.
EXTERIOR ARCHITECTURAL FEATURES	Includes the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size and location of all such signs. Such "exterior features" shall include historic signs, color and significant landscape, archaeological and natural features of the area.
EXTERIOR LIGHTING	Illumination of a building, parking lot, or site feature.
EXTRA TERRITORIAL JURISDICTION	The land area located outside the corporate limits of a municipality, but still subject to the planning and zoning laws associated with the municipality.

DEFINITIONS	
HOME OCCUPATION	Any activity carried out for gain by a resident and conducted in the resident's dwelling unit.
HOME OFFICE	The use of a portion of a principal residence for conducting office or commercial-related activity.
HOME OWNERS' ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
HORIZONTAL FAÇADE MODULATION	Projections, recesses, ribs, fins, or building wings distributed evenly across the façade of a building.
HORIZONTAL SURFACE	As used in the Airport Height Overlay (AHO) District standards, a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
HORIZONTAL ZONE	As used in the Airport Height Overlay (AHO) District standards, the horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
HOSPITAL	An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by state law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.
HOTEL OR MOTEL	A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Hotels or motels may including an associated eating establishment, conference facilities, and on-site recreational amenities. Hotels or motels regularly offering extended duration stay facilities to patrons are extended stay facilities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses
HUMAN-SCALED DEVELOPMENT	Features of a building or built environment that are sized and configured in accordance with the typical human frame. Human-scale details and features are most often configured for observation and recognition by people who are walking.
I	
~~**ICE HOUSE**~~	~~A manned or unmanned facility selling packaged ice manufactured off-site to members of the public at retail or wholesale.~~
ILLICIT DISCHARGE	Any discharge to a MS4 that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit), allowable nonstormwater discharges, and discharges resulting from fire-fighting activities.
IMPERVIOUS SURFACE	Any material that reduces and prevents absorption of stormwater runoff into previously undeveloped land.

DEFINITIONS	
MANUFACTURED DWELLING (HOME)	A factory-built structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include travel trailers or recreation vehicles.
MANUFACTURED DWELLING PARK	A commercial use where land is divided into individual leaseholds but not individual lots owned in fee simple that are intended for occupation by individual manufactured homes. Manufactured home parks may include shared or individual accessways, recreation facilities, and other shared accessory uses like laundries, storage, or refuse collection areas.
MANUFACTURED HOME PARK OR SUBDIVISION	As used in Section 3.19, Flood Hazard Overlay (FHO) District, means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
MANUFACTURING, HEAVY	Uses that tend to require large amounts of bulk or unrefined materials which are typically processed and stored outdoors on the site. These uses require a significant amount of energy for the processing of raw materials, and are likely to generate significant noise, vibration, dust, glare, heat, odor, smoke, truck traffic, in the immediate vicinity of the use. Heavy manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants.
MANUFACTURING, LIGHT	Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place solely within enclosed buildings, which helps limit (but does not completely prevent) the creation of noise, vibration, dust, glare, heat, odor, and smoke. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.
MAP AMENDMENT	See "Rezoning."
MARKET VALUE	For the purposes of the FHO, the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal, replacement cost depreciated for age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.

DEFINITIONS	
OUTDOOR COMMERCIAL RECREATION	A commercial establishment located entirely primarily outdoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as: water parks, miniature golf, go cart racing, obstacle or ropes courses, zip lines, paintball, mechanical rides, and similar attractions. Outdoor commercial recreation uses may include buildings or structures that also provide indoor recreational activities.
OUTDOOR DINING AND SEATING	~~The provision of on-site outdoor seating areas by a commercial or institutional use type where food or beverages are served for consumption. The~~ Any accessory use that allows ~~also may include~~ outdoor dining and/or seating in the ~~areas on~~ public right-of-way~~sidewalks in front of or to the side of the establishment~~.
OUTDOOR DISPLAY	The keeping of any goods, merchandise, or vehicles, in an unroofed area for marketing or sales purposes.
OUTDOOR SEASONAL SALES	The temporary sale of goods or products associated with the season or a cultural event, such as the sale of Christmas trees, pumpkins, or seasonal produce. Such sales typically take place outdoors and in locations not devoted to such sales for the remainder of the year.
OUTDOOR STORAGE	The keeping, in an unroofed area, of any goods or materials, particularly goods and materials that have a large size, mass, or volume and are either not easily moved or carried or require a mechanical lifting device (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, vehicle fleet storage, or the display and storage of vehicles as part of an automobile sales or rental use.
OUTFALL	As used in Section 7.4, Stormwater, the point of wastewater or stormwater discharge from a discrete conveyance system. See also point source discharge of stormwater.
OUTPARCEL	A lot located within a multi-tenant development (e.g., a shopping center) which may or may not have access from a public road abutting the development. The lot is treated as part of the larger development with respect to applicable yard and dimensional requirements.
OUTPATIENT TREATMENT FACILITY	A small-scale facility where patients are admitted for examination and treatment by one or more physicians, dentists, or psychologists on a short-term basis. Patients may or may not receive care or lodging overnight, but the facility is not intended for long-term overnight care. Such facilities may include sleeping rooms for care workers and members of patient's families.
OVERHANG	The edge of a roof or upper building story projecting outwards.
OVERLAY ZONING DISTRICT	A zoning district designation that is applied over one or more previously established general or conditional zoning district designations. Overlay districts modify the existing zoning district provisions by either adding additional regulations or providing greater flexibility in deviations from the existing applicable standards. Typically, when overlay district standards conflict with the underlying general or conditional zoning district standards, the overlay zoning district standards control.

DEFINITIONS	
QUORUM	The minimum number of council, board, or commission members that must be present in order to conduct official business or take official action.
R	
RACETRACK	A track, whether paved or unpaved, for the competitive racing of automobiles, motorcycles, trucks, tractors, dogs, or horses. Such uses may also include seating for spectators, equipment and staging areas, and concessions areas.
RADII	Curves or bends in a street, sidewalk, greenway, or other travel route.
RAIN GARDEN	See "Bio-retention Cell."
RAW OR SEMI-FINISHED MATERIALS	Products, materials, or components in an original or unrefined state that are altered through the manufacturing process.
REAL PROPERTY	All land, all buildings, all structures, and other fixtures firmly attached thereto.
REAR FACADE	See "Façade, Rear."
REASONABLE ACCOMMODATION	Any change or adjustment to a provision of this Ordinance or condition of approval that would allow an individual with a disability to enjoy equal access to a dwelling, structure or site that is available to other individuals.
RECESS	Habitable space that is recessed inwards from the main wall of a building.
RECORD DRAWING	See "As-Built Plans."
RECREATIONAL VEHICLE	A vehicle, which is: 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light duty truck; ~~and~~ 4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5. Is fully licensed and ready for highway use.
RECREATIONAL VEHICLE/TRAVEL TRAILER PARK	A commercial establishment offering individual spaces or "sites" for short term rental to owners or operators of recreational vehicles or travel trailers. Such uses typically have shared or common restroom, showering, and laundry facilities, and may also include recreational features and incidental sale of food, travel supplies, and recreational vehicle equipment. Rental of an individual site for a period of more than three continuous months, or uses that allow vehicles to be modified in ways that result in permanent, non-mobile structures are considered mobile home parks.
RECYCLING CENTER	A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.
REDEVELOPMENT	Installation of any improvements, new construction, or reconstruction on a lot or site that has pre-existing uses. As used in Section 7.4, Stormwater, any development on previously developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

DEFINITIONS	
SMALL WIRELESS FACILITY	A wireless telecommunications facility consisting of an antenna and associated wireless telecommunications equipment installed on a utility pole, public utility pole, building, or other vertical projection not specifically intended for the accommodation of wireless telecommunications facilities (e.g., a traffic signal mast arm, a light standard, sign pole, etc.) that does not exceed the maximum size requirements for such facilities as listed in Section 160A-400.51 of the North Carolina General Statutes.
SMOOTH-FACED CONCRETE BLOCK	Concrete blocks that do not include adornment or any surface relief.
SOFFIT	The exterior material mounted to the underside of the roof rafters that project past the edge of an exterior building wall.
SOLAR ENERGY SYSTEM	A system consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity. As an accessory use, a solar energy system is designed to primarily meet on-site demands (but may include transfer of excess electricity to an electric utility grid) and components are typically mounted on the roof(s) of principal or accessory structures, but may be mounted on other parts of structures, or on the ground.
SOLAR FARM	A group or series of photovoltaic (or solar) panels placed to convert solar radiation into usable direct current electricity and provide that electricity to a use on-site or to the larger electrical network. Such uses may include batteries for energy storage.
SOLDIER COURSE	One or more courses of bricks or blocks that are installed within a masonry wall in a vertical instead of horizontal alignment. Soldier courses are often used to denote differing floors of a multi-story building.
SOLID WASTE MANAGEMENT FACILITY	Land, personnel and equipment used in the management of solid waste as defined in Title 15A of the North Carolina Administrative Code.
SPECIAL EVENT	Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, closeout sales, grand openings, fundraising or membership drives, carnivals, fairs, circuses, and tent revivals.
SPECIAL FLOOD HAZARD AREA (SFHA)	The land area anticipated to be covered by the floodwaters associated with the base flood event. As used in Section 3.19, Flood Hazard Overlay (FHO) District, means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year. The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated November 17, 2017, developed as part of the FIS, which are adopted by reference and declared a part of this Ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the City of Burlington are also adopted by reference and declared a part of this Ordinance.

DEFINITIONS	
VELOCITY	As used in Section 7.5, Soil Erosion and Sedimentation, the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
VERTICAL FAÇADE MODULATION	The organization of a an individual building façade into a base, middle, and cap configuration where there are discernable differences in exterior materials, building wall planes, or architectural detailing along the façade from the grade to the top of the building.
VERTICALLY-INTEGRATED MIXED-USE BUILDING	A two or more story development that includes residential and non-residential development. It is typical for vertically-oriented mixed-use development to include residential development on the upper floors and nonresidential development on the ground or street level.
VESTED RIGHT	A right pursuant to North Carolina General Statutes Section 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved building permit or site-specific development plan.
VESTED RIGHT CERTIFICATE	An authorization granted by City Council to an approved site-specific development plan that protects the development from the need to comply with some (but not all) regulatory changes that are adopted by the City during the period which the development is vested.
VETERINARY CLINIC	A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.
VIOLATION	A breach, infringement, or transgression of a law or requirement in this Ordinance or a permit or other development approval. As used in Section 3.19, Flood Hazard Overlay (FHO) District, the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance with the City's flood hazard prevention provisions is presumed to be in violation until such time as that documentation is provided.
VISUALLY TRANSPARENT	Glass or glazing that does not obstruct the view into a structure.
W	
WALL, BUILDING	The entire surface area, including windows and doors, of an exterior wall of a building.
WALL OFFSET	A projection or recess located in or along a building wall.
WALL PACK	An exterior lighting device that is flush-mounted on a vertical wall surface.
WALL PLANE	The exterior surface of a building wall relative to the lot line it abuts.
WALL PLANE, PRIMARY	The largest portion of a building wall in terms of area on a single building façade that maintains a uniform distance from the abutting lot line.
WALL, GREEN	A building wall that is partially or completely covered with greenery that includes a growing medium, such as soil, water or a substrate and an integrated water delivery system.
WALL, PARAPET	A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.